THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
PUBLIC HEALTH SERVICE
CENTERS FOR DISEASE CONTROL AND PREVENTION
NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH

convenes

MEETING 44

ADVISORY BOARD ON

RADIATION AND WORKER HEALTH

VOL. I
DAY ONE

The verbatim transcript of the 44th Meeting of the Advisory Board on Radiation and Worker Health held at the Cincinnati Marriott Northeast, Mason, Ohio, on Feb. 7, 2007.

C O N T E N T S

Feb. 7, 2007

TRANSCRIPT LEGEND

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-- (sic) denotes an incorrect usage or pronunciation of a word which is transcribed in its original form as reported.

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-- "uh-huh" represents an affirmative response, and "uh-uh" represents a negative response.

-- "*" denotes a spelling based on phonetics, without reference available.

-- (inaudible)/ (unintelligible) signifies speaker failure, usually failure to use a microphone.

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(By Group, in Alphabetical Order)

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BALDRIDGE, SANDRA, PETITIONER
BEATTY, SR., EVERETT RAY, FERNALD MEDICAL SCREEN
BEHLING, HANS, SC&A
BEHLING, KATHY, SC&A
BROEHM, JASON, CDC WASHINGTON OFFICE
BURGAN, LARRY, DOW/SCI
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PRESLEY, LOUISE S., WIFE OF ROBERT PRESLEY
RAMSPOTT, JOHN, SINEW
ROLFES, MARK, NIOSH
SCHAEFFER, D. MICHAEL, SAIC
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SENTKER, TED, G.E.
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P R O C E E D I N G S

(1:00 p.m.)

WELCOME AND OPENING COMMENTS
DR. PAUL ZIEMER, CHAIR
DR. LEWIS WADE, DFO

DR. ZIEMER: Good afternoon, everyone. We're going to call the meeting to order. This is the 43rd (sic) meeting of the Advisory Board on Radiation and Worker Health. We welcome you all to southern Ohio. Southern Ohio today is like southern Indiana. Everything is snowy, so we have a bit of a snow delay. At least one of our members is yet to arrive, but we certainly have a quorum.

STATUS OF NEW BOARD MEMBERS

DR. PAUL ZIEMER, CHAIR

I'd like to begin our session, and before I call on Dr. Wade to make some remarks, I want to call attention to the fact that we have just recently seated two new Board members. They are so new, in fact, to the Board that their -- their table tags are still temporary. But if you're real good, we'll get you new ones by next time.

Let me introduce them. First of all, Josie Beach -- Josie's a nuclear chemical operator

and lead hazardous waste trainer for C2M-Hill in Hanford, Richland, Washington.

CM2 -- CH2M-Hill -- let's get it right, yeah. All those acronyms sound alike. Josie is a nuclear chemical operator. She's had 20 years of experience at the Hanford Reservation. She started her career in the plutonium finishing plant there and was active in the final plutonium production campaign. In the mid-'90s Josie became involved with some of the worker training programs and was -- has been involved in developing health and safety classes there at the facility. And more recently with CH2M-Hill has been involved with the tank farm waste operations group and is also a member of the United Steelworkers Union Local 12-369.

Welcome, Josie. We're pleased to have you join the Advisory Board.

MS. BEACH: Thank you.

DR. ZIEMER: And then also another new individual on the Board is Phillip Schofield, who is from New Mexico. Mr. Schofield worked at the Los Alamos National Laboratory for 21 years. He's had extensive experience in handling and in processing plutonium and

americium. He's been involved with actinide chemistry processing, a lot of different activities related to that. He has spent the last five years as an operations center specialist. He -- running and monitoring systems at the TA-55 plutonium facility. He has been on medical disability and has been working as a volunteer at the Los Alamos Project on Worker Safety. So Phillip, we welcome you to the Board as well.

MR. SCHOFIELD: Thank you.

DR. ZIEMER: Now we do have a quorum. We believe that -- I think that Michael Gibson is on the line. Mike, are you with us on the line?

MR. GIBSON: Yeah, Paul, I'm here.

DR. ZIEMER: Thank you. And then, Lew Wade.

DR. WADE: Let me formally welcome you to the Advisory Board, and as I always do, I'd like to thank the Board members for their service. I -- I welcome the two new Board members and we look forward very much to their participation and to overworking them, probably starting at this meeting. But -- but thank you. They've been through an orientation with the folks at

NIOSH and Dr. Ziemer, and I think they -- they come to us ready to -- to begin their service. So again, thank you all and Paul, please.

NIOSH PROGRAM UPDATE
MR. LARRY ELLIOTT, NIOSH/OCAS

DR. ZIEMER: Okay. We're going to begin our session this week with the program update from NIOSH. Larry, we'll welcome you back.

MR. ELLIOTT: Good afternoon, ladies and gentlemen of the Board, and colleagues and members of the public. We're so happy that everyone arrived safely during this bout of bad weather that we've had here in Cincinnati. Want to open up my presentation here with just a -- a notice to you all and to those out on the -- on the phone line, NIOSH is very pleased to have announced that we have an ombudsman now on board for Subtitle B dose reconstruction and SEC petition processing. And Denise Brock -- I don't know that she's arrived yet but she is supposed to be here in attendance at this meeting, and I certainly would like to make sure that you know about her existence in the program as the ombudsman, and we'll walk you through a little bit of her duties and contact information.

I'd also like to introduce to you as well Laurie Ishak, who is -- Ishak-Breyer, who is now married, as the SEC counselor. She's not here also. I -- I think she's in travel status bringing new computers to the new Board members right now. So when she joins us, please introduce yourself to Laurie.

For Denise as the ombudsman, you have -- in this slide you have her phone contact information. It's a toll-free number. I know she has an e-mail address but we -- I think she's trying to change that and we don't want to give that out until we get the final e-mail address.

Her duties as ombudsman under Subtitle B or Part B of the Energy Employees Occupational Illness Compensation Program Act includes these various bullets as you see here -- to provide advice to the SEC petitioners in compiling their materials, their information and the documentation that's necessary for filing an SEC petition. She'll also assist petitioners in making their presentations to this Advisory Board. Denise will work with -- with the petitioners as they encounter difficulties in

this technically-complex and -- and difficult process of -- of pushing their petition through to closure. And she's also there to assist Subtitle B claimants who may be experiencing some difficulties in the dose reconstruction process, and she can answer questions or help guide them through that process.

Laurie Breyer, or Laurie Ishak-Breyer, has her contact information here, both the office number as well as an 800 toll-free number. And if you wish to write her by e-mail, you may use the OCAS e-mail address.

Her duties involve assisting individuals who are thinking about or desirous of submitting an SEC petition. She assists petitioners in understanding the process that their petition must go through and helps them in the development and the submission, and works alongside Denise Brock in that regard.

She'll work with petitioners in overcoming their frustrations or any confusion that -- that may result in their working their way through this process.

Both Denise and Laurie have talked about holding Special Exposure Cohort outreach

meetings as part of Denise's responsibilities and Laurie in support of that. They intend to help individuals understand this complicated process of moving a petition forward for acceptance and evaluation, and final determination of what should happen. They're going to hold meetings that'll be open to the public that'll be approximately a half a day each. The -- I don't believe they settled on the total number of these meetings yet. They will deal with all requests for meetings of this sort, and identify where they need to hold such a meeting to have the greatest impact.

So to request such a meeting, I'd simply ask that you contact either Denise or Laurie Breyer Ishak and they will assist you in setting up those kinds of meetings.

Is there any question from the Board about the duties of these two individuals?

(No responses)

If not, I'm going to have to change slide shows then.

(Pause)

As I do at every Board meeting, I -- I try to give the Board and the public, the people in

attendance who are so interested, an update on the dose reconstruction program and the SEC petition process and where things stand in that regard, and so we'll just jump right in and talk about the overall number of claims that have been sent to NIOSH for dose reconstruction.

A little over 23,000 to date have been submitted to us. We have completed 81 percent of those, or 18,659 have been returned to the Department of Labor for a decision. And you see here, of that 18,659 cases, those that are broken out this way -- 16,664 have actually gone to DOL and there's been a decision made; 652 claims have been pulled by the Department of Labor for a variety of reasons, and I'll get into that later. There are currently 1,343 cases that have been currently pulled for examination by DOL as to being eligible or not for SEC class. That leaves us at NIOSH around 4,213 or another 18 percent that are still active, or are claims that are in our process. And this -- these numbers are as of January 26 this year, 2007. We have 213 cases, or one percent of the total, that has been

administratively closed under dose reconstruction, and I'll speak more about those kind of claims in a moment.

Of the 16,664 dose reconstructions that have been returned to Department of Labor for a decision, DOL has found 28 percent, or 4,594, to have met the compensability requirement of greater than 50 percent POC, or probability of causation, at the 99th percent credibility limit. They've also found 72 percent, or 12,070, of those claims had a non-compensable determination. These are only dose reconstructed claims.

When we talk about how we do dose reconstruction, as the Board knows, there's a variety of approaches that are used in our efficiency process, and these are the different types of dose estimations that can be done. This information is provided to the Board so that you can better plan your review and sampling of concluded cases for your review.

The -- by and large, the -- the overestimation of internal and external dose, as you can see here at 11,026 cases, have been completed using that kind of a -- an overall approach. I won't

go through the rest of the list. You'll have it -- you have it in your briefing booklets. Of the 4,213 cases remaining at NIOSH for dose reconstruction, we would show that 1,023 of those are currently assigned to health physicists. They're in the process. They're being reconstructed. Another 878 initial draft dose reconstruction reports are currently in the hands of the claimants and we're awaiting their return of our OCAS-1 form which imparts that they have no further information to provide us on that particular dose reconstruction, and we are enabled then to move that claim on to the Department of Labor for a decision. Two thousand and -- 2,312 cases are being developed or are awaiting assignment, and being developed means we're collecting the information necessary from the Department of Energy. We're also conducting interviews with the claimants. We may be -- there may be some of these cases that are held up awaiting a Technical Information Bulletin or a Technical Basis Document development before we can complete them.

There are 1,896 cases that are older than one

year in this subset of claims, so about 45 percent of our active claim population are greater than a year old. That's important to us because we want to get to -- we have a strategic goal that we're trying to achieve this year where we take one more step closer to steady state, and that is not to have a claim in our process over a year old. Once we achieve that, then we'll revise our strategic goal and attempt to -- to refine it to a better goal for the benefit of more claims.

As I mentioned, we are particularly interested in working on the oldest claims first and getting them out the door, if possible, so that these folks can have a decision. Here you see in this slide -- and if we look at our first 5,000 claims, our oldest claims in-house, we've completed 4,350 -- 4,315 of those. There have been 51 that were administratively closed under dose reconstruction. The Department of Labor has pulled back 269 claims out of this population of 5,000. 166 claims in this population have been pulled for SEC classes, and 48 are in hands -- dose reconstruction reports in the hands of claimants. You see

these listed here in white because we feel we've completed our work on those.

The next one you see here are the returned cases from DOL. These are returned for various reasons I'll speak about in a moment, but they are -- they've already had one dose reconstruction and now we're being asked to revise that dose reconstruction, so it's more work back on our plate.

The -- the red that you see here, the 81 claims that are awaiting dose reconstruction, those are the remaining active claims in our first 5,000 that we're working on. And I'll break those down a little bit more for you in a moment.

Our traditional slide of showing you by increments of 1,000 -- these are the tracking numbers that are used. When we receive a claim, we assign a tracking number, and so in sequence, if we break them out into 1,000 increments, you can see how we're doing against each 1,000 and how we're doing against the total population of claims. The blue bar indicates cases that are completed. The green bar -- part of the bar indicates cases that are

pending for some reason; there's no activity on those cases until we can get a resolution of whatever the issue may be or the obstacle may be. And then the red bar indicates those cases that have been pulled or administratively closed.

As I've mentioned to the Board in the past, I want this slide to be more informative and to also show the SEC claims that have been processed under the new classes that have been added, and those are not in this graph yet -- be forthcoming. Not much time had passed since the last Board meeting and we just haven't -- we've been working on other things that have a higher priority than updating that particular graphic.

Here this graphic shows you the number of claims in blue -- in the blue line -- that have been sent to NIOSH from the Department of Labor. And you can see that in the early days of the program, in October of '01 -- October 17th I think is when we received our first batch of claims -- that result-- that represents the backlog that we were dealing with. The green line indicates those cases

that we have completed a dose reconstruction report for and have moved it on to the claimant. And then the red line actually reflects some of the activity coming out of that green line and represents the final dose reconstruction reports that have been provided to the Department of Labor.

Here we show -- to just determine in this graphic whether there's any trend in our administratively-closing claims under dose reconstruction. And again I'll remind you this is where a person may become so frustrated they just will not sign our OCAS-1 form enabling us to send it on to Department of Labor for a decision. And at that point we give them 60 days to provide us the form or to provide us new information. If at the end of 60 days we don't hear from them, we send them another letter giving them another 14 days of grace on this issue. If at the end of 74 days we have not heard anything or we don't have any indication that the claimants have new information or have an intent to sign the OCAS-1, we administratively close the dose reconstruction.

Now we can open this -- reopen this dose reconstruction at any point in time, and we do so upon request of the claimant. They can either request that -- that we reopen it and submit the OCAS-1 so that we can move it on to the Department of Labor for decision, or they'll indicate to us that they have found additional information they want us to consider, and we will do so.

We really don't see any trends in this analysis at all. If you -- if you look at the spikes that are seen here, there's usually something accompanying a spike. Our production level increased dramatically, or a new Technical Basis Document come on line, or we run into a set of claimants that were just so fed up and frustrated with the process that -- that they found it just more beneficial to them I guess not to sign the OCAS-1.

When we receive a claim back from the Department of Labor asking us to rework the claim -- and you'll see that in this graphic under the green bar. I apologize, this doesn't come out very well in this -- we're going to have to change the colors here I think. But

the green bar indicates those we've received from DOL and the blue bar indicates those that we have done our work on and made the revisions and sent them back.

Again, there's a -- the majority of these reworks are for situations where the claimant has acquired another cancer, or identified additional employment history, or some demographic change has occurred in the -- in the claim itself. Very few of these come back to us as technical reworks. We may see more of them in the future as we get more involved in changes that we've made to our approaches and DOE -- DOL sends us the claims for rework under a modification to our -- to one of the approaches that we use.

When it comes to response to our requests for exposure information from the Department of Energy, they've been very forthcoming. We're only working on a limited number of claims as you see here, 322 open requests out there. DOL sends us, on average, about 200 new claims a month. That's been pretty steady state. So what you're seeing here is really the -- the new claims that have been sent to us. You see

here is 70 claims have a request in front of DOE at some point where we're monitoring and tracking the response to those and 70 of those are over 60 days. Every 30 days we follow up with DOE and the point of contact at the DOE facility and seek out with them where they're at on responding to our request, and that is documented. None of these 70 claims are over 120 days old at this point in time, and there are no particular sites that we're having any trouble with in this regard. So these are just -- really the -- I'm pretty pleased with how this looks right now.

We've also just recently -- we do send supplemental requests to DOE to look for information that goes beyond the individual personal dosimetry or bioassay, and generally those -- on an individual basis, those issues may -- may slow down or delay the completion of the claim, but in this -- in this regard with coworker data, we've made a number of recent requests to the Department of Energy for large datasets that will be used in developing coworker data distributions to fill information gaps across sites. And I've listed the sites

here for you. These are very important to us because there is a -- a number of these gaps that these datasets are -- are looking to fulfill. So the sites as you see them here are Argonne National Lab East, Lawrence Berkeley National Laboratory, the West Valley Demonstration Project, Lawrence Livermore National Lab, Los Alamos, and the Sandia National Lab.

Looking now at the Special Exposure Cohort class additions, there have been -- currently there are 1,342 claims at the Department of Labor and they're evaluating those claims for their eligibility with -- to stand within a class. You see the numbers here. Ames Laboratory, there have been 20 claims now at DOL awaiting that eligibility. Iowa Ordnance Plant, 336 for the first -- let's see, for the first class, the most current class, and then the -- there's one claim from that facility for the oldest class in time. Linde, we have 47 claims at DOL. Mallinckrodt, for the early class, 94 claims; and for the later class, 56 claims. And the Nevada Test Site, for that class we're -- have 188 before DOL.

Pacific Proving Ground is another class that's been added and 20 claims are represented here going through the eligibility process. Y-12 early class, we have 82 claims; Y-12 later class, 277. The Oak Ridge Institute of Science and Engineering class, there are three claims. Los Alamos National Lab, the RaLa class, there are 214 claims working through eligibility. And in S50 we show four claims.

If you were here earlier this morning you heard some working group discussion about procedures review, and I want to apologize to Wanda Munn, the chair of that working group. I was confused when you were talking about Y-12 documents. They sounded to me like site profiles and some of these documents here I'm going to present in a moment go to site profiles. So Technical Basis Documents that are currently in use in our dose reconstruction program right now total 150. There are 60 Technical Information Bulletins that are approved for use in the program.

We currently have 12 Technical Basis Documents -- and these may be a chapter of a full site profile or serve as a -- as a site profile in

and of themselves, and they -- these documents are being developed by the ORAU team for Harshaw, Sandia National Laboratory, the NUMEC sites in Pennsylvania, Metal and Controls Corporation, Sandia National Laboratory Livermore, the West Valley Demonstration Project, and Ames Laboratory, the Battelle King and Jefferson Street facility, the Peek Street facility, and the Extrusion Plant also known as RMI, and the General Electric Vallecitos facility.

Likewise at -- our Battelle technical contractor has also been working on Technical Basis Documents, the uranium metal trades, the -- this is a group of Atomic Weapons Employers that did similar processing of uranium. That'll be covered in that document. And also the uranium refinery -- refining Technical Basis Document.

Battelle's efforts are devoted to working on 1,400 claims that cover 256 facilities. That represents 15 percent of the total claims that we have, and also 85 percent of the covered facilities. So as you might imagine, this is a very small number of claims per facility here,

and in our early strategic planning we focused our efforts on the larger facilities where we had the largest claims. And we're now -- and we're now providing the attention that these Atomic Weapons Employer facilities I think deserve.

There are 221 dose reconstructions that have been completed by Battelle, were -- and are in our technical review or have moved on to the claimants; 312 dose reconstructions have been provided to the claimants.

As you know, under our Special Exposure Cohort rule we are enabled -- when we identify that we cannot do a dose reconstruction, we can use that as initial class definition and so -- that's called 83.14 in our parlance, it comes out of our regulation, and it speaks to this particular situation where a dose cannot be reconstructed. So we have identified these facilities that have -- we're writing up professional judgments and we're checking to make sure that there is no source of information that we have not yet identified, and making sure that we have all of the identified sources of information collated into

a folder that will serve as our evaluation of these facilities. They include Combustion Engineering, Kellex-Pierpont, the Lovelace Respiratory Research Institute, the SAM Laboratories at Columbia University, Lake Ontario Ordnance Works, the Massachusetts Institute of Technology, the Naval Research Lab, Norton Company, University of Rochester Atomic Energy Project, Watertown Arsenal Building 421, University of California and Dow Chemical.

I've been providing a report to the Advisory Board each meeting on our efforts on construction workers. Unless I hear otherwise, I'm probably going to drop this from -- from my presentation and cover other matters for the Board, but to conclude with this, we're -- we're dealing with about 4,600 cases that have a construction trades title in their job history. And of those we have submitted 3,881 claims to Department of Labor, 28 percent of which have found to be compensable by Labor; 74 percent have found -- been found to be non-compensable by -- by Labor. We have 723 cases remaining of construction trades workers to be

reconstructed, and we're working hard on those. Just a note for the Board, since you've had a request from the Center for Protection of Worker Rights on the -- asking for the Board to review construction trades worker claims, the Board in its first 80 dose reconstructions looked at seven that had construction trade job titles. And another 40 dose reconstructions are in the mix that -- that the Board is getting -- selecting from under their seventh review.

When we make a change in one of our technical approaches to doing dose reconstruction, or in our risk models for Interactive RadioEpi Program that determines the probability of causation, we're required by regulation to look back at the claims that have been completed and found to be non-compensable and determine whether or not that particular change is going to affect the decision outcome for that claim. And here we call these Program Evaluation Reports. Seven have been completed thus far, and I've listed them here for you. The Hanford Bias Factor -- these are on our web site, the Board has been made aware of them, the public

can get access to them -- Misinterpreted dosimetry records that result in an underestimation of dose for the Savannah River Site; Error in surrogate organ assignment resulting in an underestimate of X-ray dose to the Savannah River Site claims; fourth one is the effect of adding ingestion intakes to Bethlehem Steel cases; fifth is photofluorography at Pinellas; then we have the external dosimetry target organ for prostate cancer; and finally the evaluation of the effect of Revision 2 of the Bethlehem Steel site profile.

We've modified our program evaluation review procedure to include what we call a PEP, or a Program Evaluation Plan. We use this where we encounter large numbers of cases that might potentially -- that will need to be reviewed to determine whether or not the change that has been initiated affects claims. And it -- this is a -- if you will, a screening effort to identify the universe of claims that needs to be examined one by one. That's in a plan called a PEP, a Program Evaluation Plan.

Once we have the plan, it will -- and we work

through the cases that have been identified in that universe, then that will become a Program Evaluation Report and will be also posted on our web site to show what we found in that review. Not all PERs will need a PEP, as I said. If they're not large enough, the universe is small, we'll be able to look at those on an individual basis and finish up the Program Evaluation Report with no need to provide a plan.

Two Program Evaluation Plans have been completed to identify how we're going to deal with our change to the lung model and the risk that's associated with lung cancer. We've also got a large effort on our lymphoma change, and so both of these required a Program Evaluation Plan, and we're working through those now.

I might say that we are tracking in our management plan about 20-some-odd other program evaluation reviews that need to be done, and we're working on those.

In our communications efforts we have made some progress I think in dealing with concerns and criticisms and complaints we've heard about our communications with regard to letting folks

know that we've received their claim from the Department of Labor. This is what we call our acknowledgement. We send an acknowledgement packet to a claimant informing them that we now have their claim and we're working on it, and what's going to happen with that claim, what are the next steps. And so the Board -- Board provided us review comments on this new communication piece and it's now in effect. It's being sent out this -- this month -- or last month, in January. So from that time forward, that's the kind of acknowledge packet we'll -- we'll use until we change it again. We're also involved in revising and reformatting our draft dose reconstruction report that goes to the claimants to make it more claimant-friendly, to make it more informative and make it more understandable to that particular audience. We've heard concerns that our reports have been developed really for a different audience, a health physicist perhaps, which is perhaps true. So we're -- we're striving to revise and reformat that report and I'm not sure how soon we're going to get it out. We have to do a little bit of

retooling before we can put it into place. But we also have Board comments on that and we appreciate the constructive input that you've given us.

We have completed our effort on producing a video that explains dose reconstruction. I didn't bring one up here to hold up with me, but the Board members should have got an e-mail this morning that indicated that we'd like to know what format you want your video in. You can have DVD, CD, VCR -- you tell us and we'll get you a copy of it, as many as you want. These are available to the public. We're going to distribute them upon request. We'll have them at our public meetings. You can sign up and get one. We're going to place them in the Department of Labor Resource Centers around the country so that they can play them for claimants and use them as they see best to their advantage. We'll also have it running live stream I guess on our web site so people can take advantage of this information there.

We've made some accomplishments in 2006 that I'd like to draw your attention to. We've completed all of the oldest claims in our first

5,000 except for a few, as we talked about earlier. I can break them down into right now three specific categories. The NUMEC claims -- we had some difficulty with NUMEC. We had to threaten some subpoena action on them to get the data that -- that we needed for those claims, and we're very pleased when they finally were forthcoming with that information because there's very rich data and it was -- enabled us to do a very high-quality dose reconstruction for those claimants. And we got that information late in November or early December, and so it -- we just didn't have enough time to finish up the 31 that you see, and I think there's more now in that category -- 31 in the first 5,000.

There's 170 claims in the first 5,000 here that are -- are awaiting that eligibility determination. I put it on this slide because they may come back to us. DOL may find that they're not eligible for a class, and we'll have to re-- we'll have to reconstruct those doses for those claims.

And there's always a possibility that this category of DOL-pulled will come back to us as

well. If -- the prime category there is if a -- if a person was pulled because there's no longer a survivor on that claim and a new -- they do find a survivor, they can send it in to us. They can also -- there's a large number of this 324 that have been pulled by DOL that are chronic lymphocytic leukemia. And as you know, we're working to develop a prototype risk model and get it in front of the Board with the hopes that someday soon we can add CLL to this program and reconstruct dose against that particular tissue. So those kind of claims can come back at us out of the first 5,000. Another accomplishment is that last year, in 2006, we completed over 5,700 draft dose reconstructions. That was a -- that was a high water mark for us. That was much thanks to ORAU team capacity that they built, as well as the Battelle folks and what they were doing on those 1,400 cases that we talked about earlier. We achieved 82 percent of the dose reconstructions being completed within 60 days of assignment to a dose reconstructor. This is a GPRA goal, a Government Performance Results Act goal that we are on the books for. So once

a dose reconstructor is assigned a claim to work, we like to see that done within 60 days. Last year we had 80 percent. This year we -- we achieved 82 percent in that regard.

We -- for our reworks that -- that we respond to DOL's request to rework a claim, we accomplished 75 percent of those cases within a 60-day turnaround time frame. The year before I think it was in the 60s.

We've completed -- as I reported earlier, we've completed draft dose reconstructions for 80 percent of the claims that have been referred to NIOSH, and I think that's pretty remarkable. I know it -- it's -- that's a hollow-sounding statement to claimants who have not gotten their decision yet, but -- or for those claimants who have been waiting for three or four, five years. But this, I think, still is a remarkable accomplishment.

We completed the dose reconstruction video that I mentioned. We completed the revision to the acknowledgement packet that I already talked about. And eight new classes representing eight sites were added to the Special Exposure Cohort in 2006. So there's different ways you

can parse numbers here, but those are the accomplishments of 2006 in that regard. And I think that's all I have in my slide show for you.

DR. ZIEMER: Thank you very much, Larry. We'll open the floor for questions. Let me start by asking you on -- I think it's slide eight which is the submittals versus production slide. I'm trying to interpret the -- the blue line for Labor. Has that leveled out or is it going down still? I'm -- I'm -- I'm trying to -- I'm sort of asking I guess what do we project in the next few years. Is it going to -- are we going to have a steady input of, what is it, a hundred and -- hundred and --

MR. ELLIOTT: It's around 200 a month.

DR. ZIEMER: A month? That's --

MR. ELLIOTT: Little bit more, as you see there, but it goes -- it spikes back. I don't know what to say in answer to your question of what my expectations are. I do know, to -- to give you some sort of an informed response, DOL is going to do some new town hall meetings I believe -- I don't see Jeff around here --

DR. ZIEMER: Yeah, Jeff is here.

MR. ELLIOTT: -- scheduled where they're going to go out and talk about what their efforts have been under their new rule on Subtitle E. But whenever they go out and do an outreach like that, we tend to see more claims come in to us, so that could spike it up a little bit, but I don't know that -- I don't anticipate that we're going to see a big jump up to 600 a month. There's certainly --

DR. ZIEMER: Was -- was there not --

MR. ELLIOTT: -- people out there that have never filed a claim.

DR. ZIEMER: Right. Initially wasn't there an estimate of the potential number of claims based on what we knew about the size of the work population or...

MR. ELLIOTT: Yes.

DR. ZIEMER: Does any -- anyone remember what those numbers were and...

MR. ELLIOTT: I don't have a recollection -- there's different ways that -- that were used to provide estimates on this. You could start out with how many workers were involved across the complex --

DR. ZIEMER: Right.

MR. ELLIOTT: -- and you hear different figures about that --

DR. ZIEMER: Okay, so that's --

MR. ELLIOTT: -- ranging from a hundred and -- hundred and -- you know, hundreds of thousands -- 600,000. If you take 40 percent of that, or 45 percent of that, the -- the national average of those who get cancer, you could come up with an estimate. I don't know.

DR. ZIEMER: Okay.

MR. ELLIOTT: I don't have a recall of the formal estimates that were given at the start of the program.

DR. ZIEMER: On the 83.14 list I noticed the Lovelace Respiratory Research Institute on there. I guess I was a little surprised to see them on there since I'm at least somewhat familiar with that program. The 83.14 identification suggests that you can't reconstruct dose, and the implication is that there's a lack of information there. It just was surprising. Is this -- do you know whether that's just an early part of their -- of their program?

MR. ELLIOTT: I can't answer that question --

DR. ZIEMER: Oh, okay.
MR. ELLIOTT: -- at this point in time. I -- we are awaiting the professional judgment, which is a document that's developed to say this -- we can't reconstruct a portion of dose. I -- I think -- I think it's important to say to this audience that when we -- when we put forward an 83.14 and it starts with our professional judgment document, we -- we do that based upon our recognition that there's a component of dose that can't be reconstructed. We don't go the next series of steps to determine are there other types of dose that can't be --
DR. ZIEMER: Understood.
MR. ELLIOTT: -- reconstructed. We sort that out as we move forward --
DR. ZIEMER: Right.
MR. ELLIOTT: -- in dose reconstruction efforts. And if we have to broaden, you know, the explanation of why we can't reconstruct dose for one of these facilities, we will do that. But in order to facilitate this process, once we recognize a component of dose that can't be reconstructed, that's when we call and

throw the flag up in the air and it becomes an 83.14.

DR. ZIEMER: All right. Okay, I'm looking for other questions. Mark.

MR. GRIFFON: Larry, I think you mentioned there were 20 or so other PERs in -- in review -- development. Is there any way we can get a listing of those? I -- I would understand we wouldn't see any kind of draft reports, but even a listing might be helpful because I think some of the things that are coming up in our case review might be on that list, you know, so it would --

MR. ELLIOTT: Yes.

MR. GRIFFON: -- be good for us to be able to just say it's under review in the PER process or --

MR. ELLIOTT: I wrestled with giving you a list at this meeting, and the reason why I didn't come up with a list is because right now that's -- it's somewhat pre-decisional. Some of those may drop away. Some of them are dependent upon -- we -- we think they're going that way, but there may be a Technical Basis Document that will influence it the other way. So as soon as

I can put together a list that -- that we think are for sure going forward as a PER, we'll bring it to you.

DR. ZIEMER: Okay. Thank you. Bob Presley.

MR. PRESLEY: Larry, on the DOL returned cases, are most of those cases that -- where data is coming on board, new data, or can you explain why you would -- why DOL would pull that back -- push that back to you?

MR. ELLIOTT: Most of those cases that we have seen in DOL reworks are due to the claimant identifying another cancer, the claimant or somebody else identifying additional employment; a new survivor coming to -- to the fore that needs an interview, that has a right to go through, you know, that part of the process and say what they need to say, offer us whatever information they've got to offer us. Where we see what we call technical reworks, we're getting -- we get those -- primarily they have come to us where we haven't attended to a certain type of dose that the claimant appealed on. In the early days, ingestion at Savannah River, we saw a number come back at us on that until we got that corrected. So that -- you

know, I hope that answers your question.

MR. PRESLEY: Yeah. Many of them wouldn't be dose reconstruction re—re-dos then, would they?

MR. ELLIOTT: Yes, these are all dose reconstruction re-dos.

MR. PRESLEY: Okay. Thank you.

MR. ELLIOTT: Once they come back to us, we -- we have to revise the dose reconstruction in some regard, either because there's a cancer that we didn't reconstruct for the first time, or there's additional employment that needs to be added to the reconstruction, or a -- as I said, a new survivor appears that may have information that has bearing on the claim; we need to hear them out and make any revisions as appropriate.

MR. PRESLEY: Thank you.

DR. ZIEMER: Okay, other comments or questions? Yes, Lew.

DR. WADE: Larry, just to follow up on Dr. Ziemer's question about the -- what we might expect in the future, I wonder if in -- in future presentations to the Board you could give some thought to where the work is going in the future in terms of 83.14 petitions, in

terms of SEC petitions, in terms of site profiles so that the -- the Board could start to look at its future and imagine its work out into the future. I think that would be most useful.

MR. ELLIOTT: I understand, and we'll do our best to try to fulfill that.

DR. ZIEMER: I recognize some of these are very hard to predict, but it does appear to have reached a kind of steady state, at least, and -- - at least on the numbers of claims.

DOL PROGRAM UPDATE
MR. JEFFREY KOTSCH, DOL

Okay, thank you, Larry. Let's move on to the Department of Labor update, and Jeff is here with us again today. Welcome.

MR. KOTSCH: Good afternoon. This'll be the presentation for the Department of Labor, the summary for -- for the activities.

The program at Labor currently consists of two -- two pieces or parts. Part B, which was originally given to us and became effective in July, 2001 is basically the cancer portion of the -- the program. It also includes beryllium disease and silicosis and things related to the Department of Justice's RECA program.

Primarily I'm going to talk about cases, but here we also list out claims. On the Part B side we've had 55,499 cases, having 79,642 claims. The claim number will always be higher because obviously in some cases there'll be more than one -- one claimant. Of those, 35,594 have been cancer cases and of those, 23,062 have been referred to NIOSH.

Now I have to make the observation that I don't think any of our numbers match NIOSH's numbers that Larry presented because, first of all, each slide has a -- has a date at the bottom which is our snapshot date. That even varies in this presentation, so that's one factor. Another is just the way that we account for cases versus how NIOSH accounts for cases. I know they've been working -- both our Departments have been working to try to get those better synchronized, and I don't know that that'll ever happen, so -- but I think the thing is to look at the general size of that number and not the actual, you know -- I don't know, even -- even ten digit on that thing.

The other half of our program is the Part E portion of the program, which used to be with

the Department of Energy. But with an amendment to the Act in October of 2004, that piece of the program came to us, the Part E portion of the program, which is basically the exposure to toxic materials. And on that side there are 44,200 cases from about 59-- 50-- what's that, 60,000 claimants. 25,632 came across from the Department of Energy at the time that we effectively took the program, which was June 2005.

To date, or as of anyway January 24th, the Department of Labor has provided $2.4 billion in total compensation. That breaks down as $1.8 billion for Part B and the two largest portions of those are $1.3 billion for cancer claims and $216 million for the RECA or the Radiation Employee Compensation Act of 1990, which again is administered by Department of Justice. $556 million are Part E payments, and there's $128 million for medical payments -- actually for both Part E and Part B.

One thing generally is when we have a com-- compensable case on the Part B side, it transfers over to Part E and basically goes through as a *fait accompli* basically. It's a -

- it's an automatic, almost. And then you see on that side about 73 percent are Part B claims -- or payments, I'm sorry.

On this side, if you try to do the math on this one, it -- it doesn't work out. But the top number, the 27,000 roughly total payees is a claim number. The -- some of the other numbers are case numbers and I think what I want to try to get apart -- across here is just the proportion of the cases, you know, the way the pie distributes, basically, that -- the fact if you got 35,000 -- 35 percent cancer cases, the RECAs are 16 percent. The other Part B, again, primarily beryllium and silicosis are 21 and Part E is 17 percent.

For the Part B cancer case status, again, there's a list of the numbers there -- 35,594 cases and then the claim numbers. 25,208 cases have final decisions, so that's 69 percent are final decisions. We've got 14 percent at NIOSH, seven percent are recommended decisions and eight percent are pending. That means they're in our initial pipeline as a -- as we prepare the case to be sent to NIOSH, we do the employment development, we do the medical

development, things related to survivors, things like that to prepare to send to NIOSH. Just a little distribution on cases that are finally -- final decisions that are approved and final decisions that are denied. Approved are 9,282; denied, 15,926, and then the distribution off to the right for the -- the principal reasons that go into that. The primary bar is of course coming from the NIOSH dose reconstructions, the fact that the probability of causation is less than 50 percent. But the other ones are just that we're unable to find covered employment at a -- at the particular facilities, insufficient medical evidence in -- in Part B space that's evidence of a cancer or beryllium disease or silicosis; non-covered conditions, which now -- used to be on the Part B side when that was solely in effect where -- were, you know, other heart conditions, kidney problems, other lung problems. Now those would obviously be addressed on the Part E side. And then ineligible survivors is a -- is a small portion of that.

We've referred -- again, the numbers don't

match, but 23,062 cases to NIOSH. We've had dose reconstructions come back on 18,504; 1,408 of those have -- were withdrawn by the Department of Labor for some reason, which leaves you with 17,096 dose reconstructions. This number, the next number, 925 reworks, doesn't even agree with what I have later in the presentation, but that's a difference in -- in databases. And we've got 4,558 initial referrals at NIOSH, so that would be their in-house number -- or our number of what we think's in-house there, but I know that's different.

Dose reconstruction case status, 16,171 have dose reconstructions. We've got about -- so that's -- so we've got -- 83 percent are in final decisions, or have final decisions; 13 percent have recommended decisions but no final. That's -- initially, after the dose reconstruction is returned to the Department of Labor, the District Office issues a recommended decision to the claimant. They have the opportunity to ap-- appeal and then it goes to the -- basically appeal, and then it goes to our Final Adjudication Branch who renders the -

- the final decision. And we have 697 pending recommended decisions, which is about four percent.

This slide is -- is an ol-- I mean I update it, but an old folder concept which will phase out. Basically it's just presenting both for approved and denied claims, the numbers of the specified cancers in each of those categories as well -- and then the number of non-specified cancers, the 22 specifieds if they had them or the non-specifieds.

The new SEC-related cases, we're showing or -- anyway, our number is basically 1,271 withdrawn for SEC review. We've got 975 final decisions, which is about 76 percent; 17 percent are at the recommended decision state and we've got about seven percent, or 85, that we're indicating as pending evaluation at the District Office. Again, they come in and basically are looked at for employment and medical information to make sure they fit into the class, they have 250 days or -- like at Nevada Test Site or Pacific Proving Grounds, the equivalent of that, which is 83 continuous days if they were on-site continuously, things

like that.
The NIOSH cases -- for NIOSH cases related to compensation, we've paid out $667 million in 4,460 cases. That breaks down as $572 million of dose-reconstructed cases. That's 389-- I'm sorry, 3,827 cases and $95 million on added SEC cases, which were -- there's 633 cases.
And I think in a previous meeting you asked a little bit about, and Bob asked again, why we -- or what we -- we sent back. This is -- these are numbers from my actual database from the first one that I think I sent back on July 25th, 2003 through the end of 2006, and the general reasons. In my 2,002 number, which is the total -- some dose reconstructions that go back for rework have -- have not just one reason. They may have two or three reasons. They may have an employment issue plus a medical -- additional cancer, and then they may even have a third or fourth issue. So that's not the total number, that's just -- what I was trying to do there was just address issues that drive a rework and not the number of cases that are actually reworked. Predominantly what drives a number of reworks are medicals, the

addition of cancers primarily. The deletions of cancers, if they're below 50 percent, usually don't go back because that would only drop the dose and the probability of causation. But there are other things that go into the -- there are other issues. We have medical -- sometimes we -- we interpret the ICD-9 code, which affects the models that NIOSH uses, and then we determine that it has to go back. Employment issues are the next big thing, addition of employment, deletion of employment if it's over 50 percent. Maybe a different site -- maybe the wrong site was designated and -- or it was a close site like at Oak Ridge where they -- maybe it was a Y-12 but it should have been a K-25 or something, or Sandia versus Los Alamos or something like that. Administrative -- that's my category for the ones that primarily are -- we find an additional survivor, and we call those specials because we don't ask NIOSH to actually do a dose reconstruction, we just ask them to -- to interview the additional survivor. And this is only for under 50 percent. If it's over 50 percent it's not going to make a difference,

but if it's under 50 percent we ask them to interview the additional survivor or survivors and determine whether there's anything significant in that -- in that interview that would affect the dose reconstruction. There's actually a couple in there that relate to the wrong Social Security number. I think we heard one of these at a -- at a previous meeting, but that's that and then a technical one are primarily, by category, four things that are driven by things that we find in review of technical objections that come into our FAB group. When I review them or -- or our other health physicist reviews the objections, we find issues that are reasonable. Like Larry said, in the early days it was ingestion of -- at actually Bethlehem Steel or Savannah River, things like that. We have some recently -- things related to like Chapman Valve or even a new Bethlehem Steel one where they come in where we know that there's something in the process that's on the web site, or ev-- on the NIOSH web site, or even the lymphoma model. If they come in with an objection that's saying, you know, hey, we know there's a new lymphoma

model, it's our position that we have to send that back for a rework even though NIOSH will eventually catch that in their net -- in the PER net for the lymphoma. But there are other ones. Occasionally we -- we come across things where either then -- either we identify or the -- the claimant objects and there's some issues like with Super S that have been raised. We've been seeing some of those at Hanford we've been sending back. If things are -- also if they're citing also SC&A things that are in process now and they have not yet been resolved with NIOSH, we lean towards sending those back for dose reconstructions and allow them to be basically held until NIOSH resolves whatever that issue is because we -- we don't -- we don't have -- we can't adjudicate that with -- you know, because we don't know the answer to that question yet. But anyway, the predominant number is medical and employment.

I took a couple cuts at the things that when we see them in cases that are initially above 50 percent and then we get something else in that unfortunately drives us to send them back for -- - for dose reconstruction -- I mean for rework

of the dose reconstruction. For the medical side that's primarily a change in the number of cancers. The dose reconstruction was performed for three or four -- or two and one of them disappears. It was considered to be -- or it might have been looked at by our District medical consultant or -- or some other information determined that it was recurrent and it was actually a -- or a metastases of a primary or something like that. Some of the other ones, the purple is what earlier data -- no, that -- the purple is --

DR. ZIEMER: Do we mean less than 50 percent here --

MR. KOTSCH: No, that's greater than 50 percent.

DR. ZIEMER: That's greater.

MR. KOTSCH: This is a -- this is a small subset of all the medical ones, but it -- but in a way it's indicative of just the types of things that are medi-- examples of changes in medical information. Earlier date of diagno-- I'm sorry, earlier date of diagnosis is another significant piece of that pie where, you know, the -- it was misinterpreted, whatever --

there's other information from a pathology report that --

DR. ZIEMER: I'm missing a point here. Why -- why would you be doing a rework if it's already greater?

MR. KOTSCH: Because the information that -- that resulted in the -- in a -- this is at the recommended decision stage. If it was greater than 50 percent and we find out now that one of the -- say one of the cancers was invalid that drove it over --

DR. ZIEMER: Oh, it --

MR. KOTSCH: -- you know, we have to send it back for a rework.

DR. ZIEMER: Okay, it may have been an error in --

MR. KOTSCH: Yeah.

DR. ZIEMER: I gotcha. Okay.

MR. KOTSCH: That's the primary one. The other ones, like I said, a couple of the other significant ones are earlier date of diagnosis, which will -- not always, but generally drive you towards a lower POC. Different cancer organs, again, sometimes we have issue with how these cancers are identified, especially in the

early days. And if the pathology report is older, a lot of times the ICD-9 codes were improperly coded or absent, and then sometimes our claims examiners who were not physicians, but now that we have physicians on all our staffs they have the opportunity to go back and look at those things and make a better call at those things.

Again, things -- POCs greater than 50, but we have some employment issue. The primary driver here is about 75 percent of the cases is decreased employment. That is, it's now verified that there's actually less employment than NIOSH used -- than we told NIOSH to use in the dose reconstruction. The other big one is occasionally incorrect or what I call different employment sites. Again, the three sites at Oak Ridge, they may have -- we may have chosen the wrong one or -- or the ones that were at Los Alamos, Albuquerque, we may have for some reason picked the wrong one. Occasionally we get non-verified employment. We have maybe new exposures in there or some commercial exposures in there that that needs to come out.

And then last just the -- some of the numbers

for some of the things that were going to be discussed at this meeting, and I'll just talk a little bit about Fernald. You see there 1,347 cases. NIOSH we're showing 710 dose reconstructions. We've got 1,070 final decisions, 307 Part B approvals, 235 Part E approvals and the whole compensation for Fernald of $57 million.

Mound, 626 cases, 347 dose reconstructions. We've got 472 finals -- again, that number's -- includes potentially, you know, other things besides the NIOSH dose reconstructions; 118 Part B approvals, 81 Part E approvals and $22 million in compensation -- total compensation. And that's it.

DR. ZIEMER: Thank you, Jeff. I want to ask one other question. I know that your numbers don't track completely with NIOSH 'cause there are those time differentials and so on, but one set of figures I'm most curious about is the sixth slide where you show 9,000 denials on the dose reconstruction and NIOSH shows 12,000 with POCs less than 50 percent, so there's a difference of about 3,000 there. Is that simply that you haven't made the final decision

on the rest of those?

MR. KOTSCH: I think -- I think that's probably it --

DR. ZIEMER: 'Cause those numbers are really too far apart.

MR. KOTSCH: Yeah, I -- I would think that's it, probably, just looking at it.

DR. ZIEMER: So when NIOSH -- or when Larry says that 12,000 cases have POC of less than 50 percent, this is not an official final decision number at that point. It's what you think it is --

MR. ELLIOTT: That's correct --

DR. ZIEMER: -- based on the dose reconstruction.

MR. ELLIOTT: That's correct. It's what we think DOL will find the decision to be.

DR. ZIEMER: Okay.

MR. KOTSCH: I mean you have to remember when -- - when Larry -- when NIOSH sends the dose reconstruction to us and then we come out with a recommended decision -- recommended decision -- between the time a recommended decision is issued and the time a final decision is issued can be up to a year --

DR. ZIEMER: Right, so there's --
MR. KOTSCH: -- so there's quite a bit of lag there.
DR. ZIEMER: Gotcha. Thank you.
DR. WADE: Jeff, as always, thank you for coming and in the information. On your summary of rework activities slide, the number that jumps out at me that would be of interest to this Board is the technical reworks -- I think the number is 106. Would you agree that that's something that should be of interest to the Board? That's where DOL is -- is of the opinion that there needs to be a rework for technical issue --
MR. KOTSCH: Yeah, but again, I --
DR. WADE: -- and if that's the case, could we get some more grain from you as to what that 106 might represent?
MR. KOTSCH: Yeah, I mean I can provide more detail maybe next time. Generally, like I said, some of the things that factor into that are if things like -- well, recently we've seen Chapman Valve and the new Bethlehem Steel come back because people were citing -- like at Chapman Valve, the enrichment -- chip burner

issue. I know that NIOSH is looking at that. But again, because that's in -- something that's in transition, basically, or it -- we send it back for adjudication because we can't resolve the issue.

DR. ZIEMER: It's because you already know that it's a --

MR. KOTSCH: Yeah, we know it's --

DR. ZIEMER: -- technical issue at NIOSH.

MR. KOTSCH: -- an issue, or -- or people cite something from an SC-- SC&A report and we talk to NIOSH and we determine that -- that ha-- that issue has not yet been closed and -- but to -- to continue the adjudication process, we send those thing back, too, until they're resolved -- again, after we get resolution one way or the other, and then we'll proceed with the decision. But there's other things that -- that -- you know, occasionally we find problems with say the input, what they call Attachment A, the input to IREP, there'll be some discrepancy. Some of our claimants are very meticulous and they'll -- they'll run all the numbers and they'll say well, geez, you know, this is missing, and then we'll go back and

we'll say well, we'll talk to NIOSH and -- and look at the thing and say yeah, indeed, not -- neutron dose should have been there or -- or some kind of ambient dose should have been there, some element is missing and -- or we pick that up ourselves, just knowing what we know about the sites. There-- there's a number of things, and most of them are -- are -- there's not like one major one that jumps up other than something like when a Chapman Valve comes through and we get a series of -- you know --

DR. WADE: I do think that would be of interest for the Board to see those --

MR. KOTSCH: We can do that.

DR. WADE: -- so thank you.

MR. ELLIOTT: I would add to this that I think it -- it should be of great interest to the Board on these technical reworks, especially the category of technical reworks that are now coming back to us based upon a -- a Board deliberation comment, I'll phrase it that way. SC&A provides some concern or comment or constructive criticism about how we went about doing our work, and the claimant will pick that

up and use that in their appeal and the FAB at DOL, the Final Adjudication Branch, will kick that back to us more than -- more likely than not it'll come back to us. We'll have to pend that until we see the resolution of the Board's deliberations, and this is something that -- that we've talked with DOL about just as early as last week -- or as late as last week. It's something that we're all concerned about. If Pete Turcic were here -- I don't mean to speak for DOL and Jeff certainly can -- can chime in here, but Pete would be telling you that this is becoming an issue. Things like the Board deliberation on Rocky Flats. You know, there's -- there's claimants there that are in this category that are waiting to see how this is all going to get resolved. And the longer we take, the more frustrated they get.

MR. KOTSCH: Yeah, the -- people cite in their objections -- they will cite, you know, attendance at a Board meeting or review of the meeting minutes or something on the NIOSH web site, like we know you changed the lymphoma one -- lymphoma model, we know you changed the lung model. You know, that's part of their

objection, and of course the lung model we can handle because that's a POC one, but the lymphoma thing, Larry talked about there is a PER in process where we're working with NIOSH -- we're about halfway through that process that -- they're identifying the ones that change and are -- are going out to determine whether we have to -- we actually reopen those cases and send them back to NIOSH.

DR. WADE: So I think for a number of reasons it would be of interest --

MR. KOTSCH: Sure.

DR. WADE: -- to the Board. Thank you.

DR. ZIEMER: Other comments, questions, Board members?

Mike Gibson, you still on the line? Do you have any questions?

MR. GIBSON: Yeah, I'm still here. No questions.

DR. ZIEMER: Thank you. Okay, thank you again.

DEPARTMENT OF ENERGY REMARKS
MR. GLENN PODONSKY, DOE

Next we're pleased to hear today from the Department of Energy. Let me make a few comments about the speaker before he begins. Glenn Podonsky has recently assumed what I

would describe as the highest position in Environment Safety and Health and Security at Department of Energy. He reports directly to the Deputy Assistant -- or the Deputy Secretary of Energy and has responsibility, I believe -- and Glenn, you can correct me when you come up here, but I -- I know under the reorganization he's responsible for all the Environment Safety and Health oversight and the Security oversight as well, so -- and -- and part of Glenn's portfolio does give him some responsibilities with respect to liaison with the NIOSH activities and the providing of the records from DOE for this program. So we're very pleased -- and I might add that I had the privilege of working closely with Glenn in the early '90s when I was at DOE myself. So Glenn, we welcome you here. We're pleased to hear your report from Department of Energy.

MR. PODONSKY: Thank you, Dr. Ziemer, and Board members and members of the public. My name is Glenn Podonsky and I appreciate your putting us on the agenda. I wanted to come and talk to you a little bit about the new organization of Health, Safety and Security and why Secretary

Bodman and Deputy Secretary Sell thought this was important and how that affects what you're meeting about here today, because Department of Energy's role in this is getting the records and making them available to NIOSH, to Labor and to the Board.

Let me first start by just mentioning a little bit about the creation of the Office of the Chief Health, Safety and Security office. It's an office that's responsible for all policy for health, safety and security in the Department, with the exception of cybersecurity. It's responsible for all technical assistance in those areas, as well as enforcement, which is the Price-Anderson* 820 Rule, the 824 Civil Penalties Rule, and equally as important as anything is the 851 Worker Health and Safety Rule.

Also we have the Office of Classification and the Office of Technology Deployment, as well as an office called the Defense Nuclear Facilities Safety Board Liaison Office.

Now what's most important with the Secretary's initiative in reassembling three very formidable offices, which was the former Office

of the Assistant Secretary for Environment Safety and Health and the Office of Safety, Security Performance Assurance and the Office of Departmental Rep, is it's all under one organization, and I will give you some anecdotal examples of how in the last -- in our first five months, we're just entering our fifth month, on how we partnered with Labor Department and NIOSH to redouble our efforts to get the records that are so important for the work that's going on here. And I have to say that Secretary Bodman is very committed to worker health and safety, and that's why he wanted to put all these offices together, to get a synergy on little things like the Board member Clawson's clearance that got dropped. Security is under us. We were able to get that reinstated right away. An order to make sure that the Department doesn't say that we can't give you the records because they're OUO. The Office of Classification is in our organization, and we've had the Director of the Office of Classification working very closely with the Department of Energy's program offices to make sure that the Department doesn't --

doesn't stand behind this bureaucratic administrative control called Official Use Only. It's not a classification, it's an administrative control and our Director of Classification has been working -- very successfully, I might add -- with some of the organizations in the Department that have heretofore been somewhat reluctant. Not because they're mean people. They were ignorant in terms of what they should be doing relative to some of these administrative controls.

Larry mentioned in his presentation about the large datasets. Larry, you have our commitment that our office, under Dr. Pat Worthington and her director, Libby White -- one lab director, one manager blinks that they don't -- can't find the records, we're going to go out and redouble our efforts to help them find those records. It's very important to us that we, the Department of Energy, provide you all the records that you all need to do your job. Dr. Ziemer, we commit that to the -- to the Board, as well.

We started working with Labor Department in

September -- I did -- when the HSS organization -- not to be confused with HHS, this is HSS -- HSS, Health, Safety and Security, the Environment, and Health is -- is focused in there. We started going around the complex of DOE looking at all the sites, talking to all the site managers, contract managers, unions, to find out how we can help as an organization to enhance the worker health and safety. We also asked Labor Department to come with us to open up some doors that were previously closed because of access. And Pete Turcic from Labor Department came out with us, Shelby Hallmark also came out with us. And just give you another anecdotal, we were at one site that Labor was not able to access some of the records from some of the former workers -- again, just through ignorance of the Department. And with that one meeting we have opened up those doors and those records are now available.

Los Alamos, the Medical Center, we were having difficulties with records from the Medical Center and Libby White and her staff, through encouragement from my office and support from

my office, were able to move forward to get those records cleaned up -- not from radiation exposure, but from the Hantavirus, so that those records are available and hopefully within the next two months we'll be able to turn those over to you.

The Mound records, I just found out about this a couple of weeks ago and I -- and I asked my folks why are we as a government not finding those records? We have to examine what's in there, but the public needs to know, the Board needs to know what's in those records. And I believe, from everything my staff is telling me, that it's something that we need to seriously look at whether or not the government goes back and digs those records up.

Now I will tell you candidly, the price seems rather steep. But how do you put a price on people's records that they want to have and so that you can do your work and NIOSH can do its work? It's very important. So on the issue of Mound records, I've asked my staff to go back and not only get as much data as we can as -- so we know what are in those boxes, but find out exactly what are the real costs of digging

those up and cleaning them, and not just take the first numbers that we got and then turn around and walk away from it. It's not what we're about. That's not what Secretary Bodman wants us to do. It's not what my staff wants to do. We want to do what's right and provide all the records that we can. That's the job that we have, to provide you, NIOSH and Labor Department with those records.

I didn't start out by saying I didn't have any slides, for the gentleman on the phone, but there are no slides. I just thought I would open up the -- the discussion for any questions that you might have for the Department of Energy, and just re-emphasize for the Board, for NIOSH and for Labor that the Department of Energy is committed to helping out, and wherever we can find the records and wherever there is any kind of stubborn reaction from the Department, we will put all of our HSS resources to bear, including the Secretary.

And just one correction, Dr. Ziemer, I actually report to the Secretary.

DR. ZIEMER: That's good. Well, thank you very much, Glenn, and yeah, I think -- I think when

I originally chatted with Clay Sell about the reorganization, I think he had indicated you might be reporting to him, but I'm -- I'm glad to hear you're even at a higher level, which --

MR. PODONSKY: Well, the -- the Secretary's made it very clear to me, Mr. Sell does write my performance, but the Secretary expects me to report to him --

DR. ZIEMER: Very good.

MR. PODONSKY: -- on everything we're doing.

DR. ZIEMER: Very good. Well, we certainly appreciate the commitment you've made, both to Labor and to NIOSH, as well as to the Board, to assist in whatever records are -- are needed, including the literal digging up of some records, if necessary. And I don't know if we know at the present time whether those are necessary. But perhaps as you get a better handle on exactly what's there we'll be able to make an informed -- better informed decision of what the -- what the balance is on cost and -- and the records.

Board members, let's start with -- Dr. Lockey, do you have a question?

DR. LOCKEY: Thank you, Glenn. I wonder, is --

is Department of Energy going to have any type of oversight committee about this, representatives from Labor, et cetera, that are involved with this process of making sure that all records are made available as soon as possible?

MR. PODONSKY: I'm -- I'm not understanding the --

DR. ZIEMER: That's his job.

MR. PODONSKY: We -- we are the oversight, so we -- we are ov-- in our office we are responsible for providing independent oversight of the entire Department. We do -- we do not run any operation throughout the Department. We oversee the Department, and we not only report to the Secretary of Energy, but we report to Congressional committees on how well or how poorly the Department is doing its job.

DR. LOCKEY: So is Labor involved with that?

MR. PODONSKY: Labor is involved in our relationship, and we've redoubled our -- our efforts. As I mentioned, Shelby Hallmark and Pete Turcic have -- have worked with us. My respective staff under Dr. Pat Worthington and Libby White, we're -- we're in -- in weekly

phone calls. So there's a lot of dialogue that was not there as frequently or as supported from a high enough level in past years. So I apologize, I don't under-- I don't fully understand the -- the question of oversight.

DR. LOCKEY: Well, I -- I guess I meant does Labor have a chair at -- in this process?

MR. PODONSKY: Yes.

DR. LOCKEY: Yes.

MR. PODONSKY: Yes, and we're -- and we're -- and we're -- I just met with the Director of NIOSH, as well, and -- and we're looking to -- you know, we recognize our role. Our role in the Department is to provide the records to Labor, to NIOSH and to -- and to the Board.

DR. LOCKEY: Okay, do un-- does the union representatives have a chair in this process?

MR. PODONSKY: I don't know the answer to that. If they don't, then they should. We've reached out to the labor unions in the new organization of HSS. In terms of what we're doing, we have a very open process. In fact, we ju-- I just sent out a letter to all of the Assistant Secretaries in the Department, all the Program Officers, all the Contract Managers, that HSS,

my organization, is starting a Safety, Health and Security Manager's forum that will meet twi-- meet every two weeks and we're going to invite different folks in from -- from the com- - complex, the unions, and talk to us about their issues. We're not trying to circumvent the Department's existing venues for -- for employee concerns of that nature, but we're trying to open up -- get another avenue of dialogue that the Secretary of Energy wants us to have with the employees out there, to include the unions. Just yesterday I met with the Government Accountability Project, Tom Carpenter, so we're -- we're reaching out to everybody so that we can in fact serve in the capacity of -- of our job of overseeing safety, health and security of the Department. We can't do that in a vacuum. We have to have input from everybody. Does that -- does that answer that?

DR. LOCKEY: That answers my question.

DR. ZIEMER: Yes, Phil.

MR. SCHOFIELD: I've got a question for you.

DR. ZIEMER: All right, turn -- make sure your mike is on.

MR. SCHOFIELD: You're talking about possibly retrieving the Mound records from Area G. Being familiar with that area, how much assessment have they done on the biological and radiological hazards those workers would face going into Area G to retrieve these records? That is substantial. That is a very, very nasty area.

MR. PODONSKY: I don't have a direct answer for you. What I asked my -- my organization to do is -- because what I had heard originally in -- in full disclosure is elements of my organization said we don't -- we don't believe, from what we've heard from NIOSH and -- and the Board, that -- we don't believe that the records may be worth the cost, value-wise. And I asked the question, candidly, if those were your family records and the government said that they buried them, whether it was legitimate or not, I'm not here to question that, there is a perception of a lack of trust. And we're all taxpayers here. We all play a different role. And I, as a government official and a steward of the tax dollar, we feel compelled to find out the answer to is --

are these records retrievable. No, we don't want to put anybody else in harm's way. But at the same time, it's wrong, in my estimation -- my personal opinion, it's wrong for the United States government to say we buried them, we have no access to them, without thoroughly exploring every possibility. And the answer to your question is I don't know how -- how dirty the area is. I do know that people have come back with a high price tag, and I question that price tag because in a previous administration when I worked for Secretary O'Leary, we also had a similar situation looking for human radiation experiment records, as well. So my long-winded answer to you is we need to explore what are all the pluses and minuses to get everything we can to get these records. And at the end of the day, if -- if my office spends one and a half million dollars and -- and we do it in a safe way or maximum safe way, and the records are not as valuable, I still think, personally and professionally, that at least we are beginning to build trust with the American people that we're not just a bunch of bureaucrats.

MR. SCHOFIELD: Okay, you know, I'm just concerned the potential hazards that are in that area --

MR. PODONSKY: I understand.

MR. SCHOFIELD: -- worried about the dollars.

MR. PODONSKY: We -- we -- my independent oversight ES&H office -- for example, out at Hanford, you know, we did a report on the tank farms and the vapors, so we're ver-- we're very concerned about how the contractors are applying safety for the workers -- the current workers, so we're looking at that. So at the same time we'd be equally as -- as concerned of -- and share your concerns in that area, as well. But I must emphasize, from -- from my point of view, just getting involved in this, is that it's very important that we do everything we can so that we just don't give the answer that they're buried.

MR. GIBSON: Dr. Ziemer --

DR. ZIEMER: I assume you at least are doing -- or your people will do a risk assessment as part of the, quote, cost evaluation --

MR. PODONSKY: Absolutely.

DR. ZIEMER: -- you're working on.

MR. PODONSKY: Absolutely.
MR. GIBSON: Dr. Ziemer --
DR. WADE: If I might make a comment -- Glenn, thank you very much for being here. Please apologize --
MR. GIBSON: Dr. Ziemer --
MS. MUNN: Mike's trying to --
DR. WADE: Oh, okay.
DR. ZIEMER: Hang on, Mike.
DR. WADE: Please -- I mean -- accept our gratitude for being here. We do appreciate that. I think -- to set the record straight, I don't think the Board has offered an opinion on whether or not the Mound records should be pursued or not, I -- and towards the end of continuing a dialogue with the Board, I would certainly invite you or your representative to the next Board meeting, or several Board meetings, so that we can engage in that kind of dialogue as -- as you determine factors surrounding that recovery and the Board can then offer you its opinion. So I -- I would appreciate if you could make your -- your representatives available.
And then lastly, we would be remiss -- I would

be remiss if we didn't recognize Libby White and her staff and the tremendous efforts that they've brought to bear. We've seen the fruits of that. We applaud that and we thank her for that.

DR. ZIEMER: Thank you. Mike Gibson is on the line with comments. Mike -- or a question.

MR. GIBSON: Yeah, Dr. Ziemer, I'd just like to address Mr. Podonsky for a minute. I worked at Mound and I was union president and vice president there, and many of those records, when they were shipped out, were loaded (unintelligible) LSA boxes by Mound laborers, without any (broken transmission) physics protection, non-protective gear. Many of these records were not hot, radioactively hot. They were sent out about a month after Mound -- the union found -- filed a Mound class action lawsuit against the company for inadequate radiation protection. Is -- are -- is the Department of Energy moratorium on burying records still in effect? Or for destroying records?

MR. PODONSKY: As -- as far as I know, it is in effect. Now those records were sent out prior

to our existence as an organization, but that's why you -- you heard me answer Phillip's question with some degree of passion here, because we do need to find out what's in those records. I have heard different accounts as to when they got shipped out and why they got shipped out, but at this point our office is committed to -- to what I said earlier, to finding out what's the fea-- what is the real feasibility of retrieving these.

MR. GIBSON: Okay, well, sir, I just want to say for the record, I can tell you many of them were shipped out about a month after a class action lawsuit was filed and before discovery motions could be issued.

DR. ZIEMER: Okay. Thank you, Mike. And I -- I presume from what I'm hearing that, although the records may not have been contaminated at that point, perhaps were intermixed with hazardous materials of one sort or another, biological or radiological, and subsequently may have become contaminated. Is that what I'm hearing? And Phillip is shaking his head yes. Okay.

Mark Griffon.

MR. GRIFFON: Actually Lew -- Lew asked two of my questions. One, I would -- I think we need a -- the question of communication or dialogue, and I think if you could be present at least at the next number of meetings, that'd be very helpful 'cause we -- we'd like to know status. I think we also, as a Board, may have some requests regarding data that the Board needs access to or NIOSH has been unable to get access to or whatever, so it would be helpful for -- for you to be involved, at least one of the days out of the three.

The -- another thing, just to follow up on Mike's questioning, I think there is still a moratorium in effect, but if -- if I remember correctly, it's really -- it -- you may have to -- it may be worthwhile considering rewriting that moratorium because I think it's steered toward health and safety for environmental records or health and safety records only. I don't know that it's -- it's -- really has the language covering EEOICPA.

UNIDENTIFIED: Epidemiological.

MR. GRIFFON: Epidemiological, that's correct, epi-- yeah, so -- so those records that might

affect epi studies, correct.

MR. PODONSKY: Well, we'll -- we'll definitely take a look into that and --

MR. GRIFFON: As opposed to records that may be useful in compensation programs. That might be different things, obviously, so it may be worth considering.

MR. PODONSKY: The other thing for -- for both Lew and -- and yourself, Mark, is I've asked Libby White and/or Pat Worthington, Dr. Pat Worthington, to be at every one of your Board member meetings, not by phone but in person so that if there are questions, if you do need to have dialogue, or if the public needs to have dialogue with DOE, we have somebody there at that level. So we will be here unless you dis-invite us, so...

DR. ZIEMER: Very good, thank you. Brad Clawson.

MR. CLAWSON: So we've got moratorium, I guess my -- one of my questions is is it kind of surprises me to see a lot of these documents be destroyed like that, but are we taking action for in the future that these can't be destroyed like this or -- I -- I guess what I'm trying to

say is what -- what is stopping from records being destroyed now? Is there moratorium on these records or...

MR. PODONSKY: I'm -- I do not have a good, straightforward answer for you other than I would tell you that -- and maybe Larry or -- or Libby -- Libby, why don't you come up to the microphone and -- since you've been working this for years. But what I will tell you is that we will do everything we can to make sure that the records are preserved. Irrespective of what Libby's going to tell you now, that's what we're going to be doing in the future.

MS. WHITE: That's actually what I was about to say. We're doing a couple of things. We're beginning work with the CIO's office, our Chief Information Officer's office, to look again at the procedures we have in place for the destruction of records. We're looking at what's included under the epi moratorium. Actually soon after the enactment of EEOICPA, there were some additional records collections added to the epi moratorium. But we think it's probably time again to look more closely at that and consider adding additional collections

of records so we're going to go out to all of our records contacts in the field and get their input.

And then lastly, we're working on a letter that could potentially go out to all employees, or at least to the records officers at the DOE sites, reminding them about the epi moratorium, asking for their input on an ongoing basis as they come upon these records collections so that we can keep this an open issue and on an ongoing basis add records collections to this epi moratorium. But any additional suggestions that you have, we -- we would most definitely appreciate.

DR. ZIEMER: Thank you, Libby. Larry, you want to follow up and...

MR. ELLIOTT: I would like to follow up and give you a little bit of process-related concept here that goes on. When DOE identifies a system of records that has achieved, in their records retention schedule, a time to be destroyed -- you know, they have a records retention schedule that calls for destruction at a certain point in time. We are notified -- NIOSH is notified in -- in two different groups

at NIOSH. The research group at NIOSH is notified of that, and my office is notified of that, and we're asked what are our thoughts about these -- this set of records that are proposed to be destroyed. Are we okay with that or do we want to essentially say no, don't -- and advise not to destroy those, and they've heard us out on those situations.

The moratorium, as it's been referred to, is an epidemiologic moratorium, so it's records that go to epidemiology. Not necessarily does that cover the type of records that we need for compensation purposes, so I'm -- I'm happy to hear that they're looking at changing the language in that, if they do.

MR. CLAWSON: And Paul -- and -- and one thing that I wanted to bring up and -- and Idaho's in the process right now of a lot of facilities being tore down and so forth like that, a lot of our radiological information of when we're tearing out certain areas, they're -- they only have a life expectancy of two years before they're destroyed. And -- and I think it'd be very beneficial for us to look at this, especially tearing into some of these buildings

that have histories of 50, 60 years, because they get into some very interesting stuff. I know that we have logbooks of most of the -- that they're trying to figure out what to do with right now, and I hope they save them. But they're trying to justify, as a contractor, especially CMH2-Hill on INL side, there's nothing in their contract for them to take over these logs and I -- I know that many of them have been lost in the D&D process and I think that we're really making a mistaken and we need to look into it.

MR. PODONSKY: You raise a good point and we -- we would welcome any -- any areas that the Board wants to recommend for us to change the way we're doing business because -- again, as I -- as I said and I'm now going to reiterate my point, is that we are committed -- Secretary Bodman is committed, the Department is committed -- to providing you, the Board, NIOSH, Labor, with all the records and there are things that you're bringing up that, quite frankly, I'll have to talk to my staff and ask why we haven't thought about some of these things. But maybe they have and maybe they've

addressed it, and maybe they've had some -- some difficulties within the Department. But I'm here to tell you that with -- with the creation of HSS, we're not the Shell answer man, but with the creation of HSS we anticipate making some inroads in areas that we haven't been able to do before because we have such a formidable group together now under one umbrella.

One example is recently we went out to all of the site managers and asked for them to designate a point of contact for us and Labor Department so that we don't have to keep on guessing at each site who do we go to. And then we are holding those site managers, those lab directors, personally accountable for working with us. We're using the -- candidly, we're using the force of the office of which I report to, which is the Office of the Secretary of Energy.

MR. CLAWSON: And I'd also like to thank you if my help -- for your help getting mine back, but one thing that did bother me was that even the I-- our site didn't have a very good understanding of what this Advisory Board was

for. It re-- it really surprised me, and I think it was Greg Lewis that helped me and he was quite surprised, too, but he was assured that he'd help me take care of it, so I appreciate it.

DR. ZIEMER: Thank you. Bob Presley.

MR. PRESLEY: Glenn, as somebody that -- that works in this at least four days a week, I'm glad to see you on board. I don't know where you remember me or not, but I'm from Y-12 and now, as a retiree, that's what I'm working on is the old -- old records throughout the whole complex.

One of the things that -- that I'm having a problem with that you all need to look at, the -- the older records are deteriorating so bad that a lot of times you'll pull a piece of paper -- back many, many years ago they used mimeograph machines. You look at that piece of paper and the mimeograph ink has totally dissolved. The questions are gone, but the answers -- if somebody put it in ink or pencil, the answers to the questions'll be there. That's one of the things I've found.

And the other thing that I've found that the

site are doing, and this is -- this is -- I can't say totally complex-wide, but in four or five of the sites that I've pulled records from in the last ten years, they will hire contract personnel that all their job is to do is take a piece of paper and slap it on that Xerox machine and -- or the computer scanner and hit "scan," and they don't care if the quality of that thing -- if it's skewed to where you can't see it, they may pull it fast, and a lot of the documents that I have had to go back and look at that have been scanned -- I hate to say it -- are not legible. And that's something that a -- a lot of the people that have gone out here -- here's a guy shaking his head right now -- you look at this stuff from the sites and -- and it's a real problem, especially the stuff they've got scanned on the computer systems. And the other thing is there's a tremendous amount of data that we have all over the complex that they've gotten rid of the machines to read it. Y-12 has the big disk. It's got all kinds of stuff on it, but there's no machine that can read it anymore. We have millions of clock cards and there's no machines

to read those things. And those clock cards are what the dose reconstruction and HP records and all that stuff are on, but you can't go get them; they're worthless.

If I can help, holler.

DR. ZIEMER: Okay, thank you.

MR. PRESLEY: Thank you. I'm glad to see you on board.

DR. ZIEMER: Phillip, I think you're next.

MR. SCHOFIELD: Okay. Yeah, I want to say that -- kudos to you for trying to retrieve those records. I hope you succeed. But I do -- like I said, in the strongest terms, that before you send anybody in there, please send them in there with the proper safety gear.

MR. PODONSKY: I hear you loud and clear.

MR. SCHOFIELD: Thank you.

DR. ZIEMER: Brad? Okay, I --

MR. CLAWSON: Sorry.

DR. ZIEMER: Anyone else?

(No responses)

Thank you again, Glenn. We appreciate it. We look forward to future interactions with you and your -- Libby and others on your staff.

MR. PODONSKY: Thank you very much.

DR. ZIEMER: We're going to take a 15-minute break and then we'll reconvene.

(Whereupon, a recess was taken from 3:10 p.m. to 3:35 p.m.)

DR. ZIEMER: Let us now resume our deliberations. We're going to begin this afternoon -- is Mark leaving?

DR. WADE: Mark.

SUBCOMMITTEE ACTIONS
MR. MARK GRIFFON, ABRWH

DR. ZIEMER: We're -- we're going to begin with the subcommittee report. Mark Griffon, are you ready? Preventing him from getting his coffee, I think, but -- kick us off here, Mark, on the actions and recommendations of the Subcommittee on Dose Reconstruction.

MR. GRIFFON: You caught me sliding way there for -- didn't realize I was on the agenda next. Yeah, the Subcommittee for Dose Reconstruction met this morning and we primarily focused on looking at the seventh set of case reviews where -- at the last meeting, and then continued on the last phone call meeting on January 11th -- we had come up with a -- a set of cases that we were interested in. And -- and this time we did it a little differently

than -- I know a lot of people were here this morning but I'll repeat it -- a little bit repetitive. We did it a little differently this time. We -- we sort of asked NIOSH -- we wanted to pre-screen some of these cases and we selected some cases and then we asked NIOSH -- come back with some more information so we have a better understanding what types of cases we're -- we're actually going to review because we don't want to see a lot of the same types of cases that we saw the first six sets of reviews that we did.

So we had -- total I think we had about 60 -- 61 cases to make our selections from. And this morning in the subcommittee meeting we selected -- we came up with a final total of 28. SC&A had asked for around 30 so that they can do two batches in this -- in this year to get their -- their contract total for the year is 60. We ended up with 28, which I think we'll move -- we're -- we're offering back to the full Board as a recommendation to proceed with our seventh set of cases, these 28 cases. And I guess we can -- do we want to --

DR. ZIEMER: I think you should identify and

make sure everybody has the main -- the main set from which to make the selections. Board members, this should have been distributed to you.

DR. ROESSLER: I think we have two sets. Can you tell us which --

MR. GRIFFON: Yeah, one has --

DR. WADE: Slightly -- slightly different registry on the front, but they're the same numbers.

MR. GRIFFON: Yeah, I -- I think they're the same thing.

DR. ZIEMER: The -- the heading on the -- there's actually two -- two sets here in one packet. One says first pre-selected set, December. And then if you go down to what's -- page 5, I believe it is, near the bottom of the page it says second pre-selected set, January. That's the total of the -- of the sets from which you're choosing. Is that correct, Mark?

MR. GRIFFON: Yes. Yes.

DR. ZIEMER: Now I said mine is on the bottom of page 5 and I'm -- I'm noticing yours is what? Do we have the -- do these match up?

MR. GRIFFON: I don't know if it matches these.

MS. MUNN: No, they don't match.

(Pause)

DR. ZIEMER: There may be a slight difference in formatting on these two sets, but I think it's the same set.

DR. WADE: It's the same set but --

DR. ZIEMER: We're going to identify the cases by number and description, so --

MR. GRIFFON: Yeah, we'll go through in order on the pages so you can follow along, and I guess what I'll do is I can -- I can read out these numbers and then maybe give everybody tonight to look them over and we can -- I don't think we have to decide on these right now --

DR. ZIEMER: We don't have to unless -- unless the Board members feel like they're ready to make the selection.

MR. GRIFFON: I think people may want at least tonight to have a chance to look at them --

DR. ZIEMER: Right.

MR. GRIFFON: -- and maybe come back with questions tomorrow or whatever.

DR. ZIEMER: So you're going to read us a list of --

MR. GRIFFON: Yeah.

DR. ZIEMER: -- I think 28 cases.
MR. GRIFFON: 28 cases, yeah.
DR. ZIEMER: So Board members, if you would mark these in some way so you know which they are --
MR. GRIFFON: I'm going to just read the last three numbers in the ID -- selection ID.
DR. ZIEMER: And then tell us what page you're on in each --
MR. GRIFFON: First one is --
DR. ZIEMER: -- case.
MR. GRIFFON: -- yeah, 079. Now I'm on -- I'm on page 2, but this may be -- the -- the pages may not go exactly the same as the stapled copies. The next one is 063, 455, 335, 337, 099, 056, 322, 354, 375, 013, 076, 017, 306 -- now you should be onto the second pre-selected set and we've got a number in a row here, 428, 377, 379, 470, 370, 352, 060, 100, 340, 360, 058, 421, 344 and 001. And that should total 28 cases for the seventh set of reviews, so --
DR. ZIEMER: Okay, so these are the 28 cases that the subcommittee is recommending that we assign to the contractor for the initial review, working together with our normal review

teams, and then we would go through the review -- full review process. What -- what we'll do then, we'll take this as a recommendation from the subcommittee and agree to defer action until later in the Board meeting so you have a chance to look at those cases in more detail. Each -- the chart shows you the type of cancer, the facility, years worked, the decades worked, probability of causation and other information on each case, so you have the opportunity to look at those and, Board members, when we take action you have the opportunity to add to or delete from or accept these 28 cases as our next group for audit and review.

Any questions on that?

MS. MUNN: So we're not going to -- we're not going to do anything now?

DR. ZIEMER: I think Mark has suggested that we allow people overnight at least to have a chance to look at these in more detail. So without objection, we'll do that.

MR. GRIFFON: And I -- I did notice, and you -- if you look through these you may notice that in the second pre-selected set -- beyond that point there seems to be some kind of formatting

-- number format problem because instead of a date DR was approved, there's a -- a number in there and I think that was an Excel problem. I don't know if we -- it probably is okay in the electronic version if people have their electronic version. If they reformat that column to "date," I'm sure it's going to be fine. But right now it appears just to be a five-digit number. Right? And not -- it doesn't look like a date to me.

DR. ZIEMER: Well, I guess I would ask how critical that piece of information --

MR. GRIFFON: Right, and I --

DR. ZIEMER: -- is.

MR. GRIFFON: -- I think it is.

DR. ZIEMER: I'm not sure it is for -- for what we're doing here. So unless somebody needs to know that particular piece of information, it doesn't --

MR. GRIFFON: Yeah.

DR. ZIEMER: -- seem critical to the selection process.

MR. GRIFFON: Right, I think you -- you have more than enough information, but if you are wondering why that's that way, I think it's a

formatting problem.

DR. ZIEMER: Okay. So we will take formal action on -- on those at that point. Mark, you have some other items from the subcommittee to bring before us.

MR. GRIFFON: Yeah, just -- just a -- a few other -- just a report back on what the subcommittee's working on. We have the fourth set matrix underway. This is the fourth set of cases we've reviewed. I think it's -- we've done 60 and that would be 61 through 80, case number 61 through 80. The matrix, for those of you who are not familiar with that process, we -- SC&A brought back a report -- that's our contractor -- brought a report to the Board on their findings when they reviewed these 20 cases. We tried -- SC&A then put those findings into a matrix -- a summary of the finding actually, in the matrix and then we bring it back to our subcommittee process and we go through a com-- a comment resolution process. There -- it's a little more involved than that, but basically Board members are involved before that, but actually -- anyway, the -- the finding is discussed in the

subcommittee and NIOSH gives us a response to the finding. And then at that point the subcommittee, along with SC&A and NIOSH, discuss it and try to come to a resolution on -- - on the finding. And at this stage on the fourth set of cases we're -- we're close to the end of the resolution process. There are some outstanding actions for NIOSH to complete, and I think a few for SC&A as well. I've -- I've edited the fourth set matrix to include the resolution from our last meeting. I'll just -- I'm -- I'm going to distribute that after this meeting to the subcommittee members as well as SC&A and NIOSH. And we're hoping to have a meeting probably sometime in April, in between Board meetings have a subcommittee meeting where we can do our final deliberations on that fourth set matrix.

We also have a fifth and sixth set that are out there and underway. The fifth set matrix -- we're almost ready to deliver that to NIOSH, and at that point NIOSH will -- will go back to their team members and -- and review each finding and give us their comments on the findings, and then we'll bring it into the same

process, back to the subcommittee.
The sixth set is a little earlier on. SC&A has completed their review and they're just about ready, as I understand it, to meet with individual Board members and go through each -- Board members are assigned certain cases to review, and SC&A does usually conference call meetings with the Board members to discuss the findings on the cases that were assigned to -- to each Board member, and they're just about at that stage now. After that's completed, then it'll come through the same process. So we're -- we're teeing these up to -- to catch up to the seventh set of -- of DR reviews.
DR. ZIEMER: Mark, if I could interrupt, this is a good point to raise an issue. As we do the sixth set, we want to integrate our new Board members into the review process. I -- I'd like to find out if Kathy Behling is still on the line. Kathy, are you on the line?
MS. BEHLING: Yes, I am.
DR. ZIEMER: Kathy, do you have at your fingertips the current list of teams that you were going to use for this sixth set? Or do --
MS. BEHLING: I do not have that at my

fingertips at the moment but I can --

DR. ZIEMER: Could you --

MS. BEHLING: -- get it.

DR. ZIEMER: -- pull that out in the next few minutes readily?

MS. BEHLING: I will attempt to do that, yes.

DR. ZIEMER: And then -- and we'll come back in a few minutes. What I'd like to do is -- in fairness to the new people -- not require them to be a team by themselves without the experience of these veterans, but to take a look at the team assignments that you had for number six and we might want to change those slightly, integrate Josie and Phil into one of the existing teams, or two of the existing teams, and go from there. So we'll come back to this.

MS. BEHLING: Okay, very good.

DR. ZIEMER: Okay. Mark.

MR. GRIFFON: And the -- the last two items -- really the last item we discussed for a fair amount of time was blind reviews. And early on we had talked about doing some of the dose reconstruction reviews in a blind review fashion and -- and to date we haven't done any

blind reviews. So we had a -- a fairly good discussion about, you know, what that would involve, not only from a -- a sort of technical standpoint, but also from a process standpoint for the subcommittee. I -- I've -- I've offered to -- to draft sort of some protocols for that blind review within the subcommittee, bring it back to the subcommittee and then certainly will bring it back to the full Board for approval before we go ahead with any blind reviews. But I think we're -- we're anticipating the eighth set may include a couple of blind reviews anyway, but we want to better define -- when we say blind review -- exactly what the protocols are and what the process will be. And -- and like I said, we'll do that on the subcommittee and bring it back to the full Board.

And the final thing -- and we didn't really have time to discuss this much in the subcommittee, but just -- just so you have it in the back of your mind maybe, most of the -- in the original scope of work for the DR reviews we had basic, advanced and blind reviews. And I challenged our subcommittee and

-- and certainly all Board members to reconsider the scope as it pertains to the advanced cases to make sure that -- 'cause I believe there's -- there's at least a few items within that scope that we are not currently addressing in our reviews and we may want to ask SC&A to address some of those in future reviews.

DR. ZIEMER: And you will make a specific recommendation on that --

MR. GRIFFON: Yes, I think we'll do the same thing, but --

DR. ZIEMER: -- at some point.

MR. GRIFFON: -- we -- we didn't really discuss that much in the subcommittee due to -- due to time this morning.

DR. ZIEMER: Okay.

MR. GRIFFON: But we'll -- we'll report back more on that. But if anybody has input along those lines, I'd -- I think we'd certainly appreciate it as well.

DR. ZIEMER: Board members, let me ask if any of you have any questions for Mark or for the subcommittee -- or comments?

(No responses)

How are your fingertips doing, Kathy?

MS. BEHLING: I have the information in front of me.

DR. ZIEMER: Right at your fingertips, okay.

MS. BEHLING: For the sixth set of cases, there are five teams of two individuals from the Board and I will list those for you. One team is John Poston and Robert Presley. Second team is Genevieve Roessler and James Lockey. Third team is Mark Griffon and Bradley Clawson. The fourth team is Michael Gibson and Paul Ziemer. And the fifth team is James Melius and Wanda Munn. So those are currently the five teams that have been selected for the sixth set.

DR. ZIEMER: Okay, thank you. I -- I think the best way to do this would be to -- we'll make a sixth team and -- and pull somebody from each of two teams --

DR. WADE: You only have to pull one really.

DR. ZIEMER: Huh?

DR. WADE: If you pulled one --

DR. ZIEMER: Well, all right, we'll pull one and that'll leave the other one open. I'm hav- - I have trouble with these advanced concepts. Okay. And this is kind of arbitrary I guess.

Let -- let me --

MR. GRIFFON: Two teams.

DR. ZIEMER: Well, we -- let's see, but we -- we need --

MR. GRIFFON: Oh, yeah.

DR. ZIEMER: -- as many teams as -- I think teams of two worked out pretty well last time. How about if we -- let me pull Lockey off and perhaps -- let's -- let's put -- how about if we put Phil with -- Phil with Gen Roessler. Is that all right?

MS. BEHLING: Dr. Ziemer?

DR. ZIEMER: Yes.

MS. BEHLING: Excuse me, the -- if we proceed with having six groups, we'll have to reassign the cases for the sixth set because currently each of the five groups has four cases, and so we would have to reassign the cases for these two new --

DR. ZIEMER: Oh, I see what you're saying.

MS. BEHLING: Yeah, I'm not sure what you're --

DR. ZIEMER: Well, would it be easier for this sixth set just to -- to put the two new people with an existing team, then? Is that what you're --

MS. BEHLING: I -- I believe that's the easiest approach.

DR. ZIEMER: We'll -- we'll do that then. Thank you very much. Good suggestion. So we'll go back to -- to -- I'm just going to take them in order, so let's add Phil to team one --

MS. MUNN: Who's team one?

DR. ZIEMER: That's Poston/Presley. And then we'll put Josie with Roessler and Lockey. Is that agreeable? And that will give them experience with the process and then --

MR. PRESLEY: Paul --

DR. ZIEMER: -- we'll be set next time around.

MR. PRESLEY: -- can we go ahead and get them sent, a copy of the cases?

DR. ZIEMER: Well, let -- let me see what legal counsel is -- I'm -- I'm -- my warning signs are going up. Liz is approaching the mike. Liz.

MS. HOMOKI-TITUS: I just want to remind you that you need to review whatever cases the teams that have been assigned --

DR. ZIEMER: Oh, yes --

MS. HOMOKI-TITUS: -- make sure that they don't

have conflicts before you assign --

DR. ZIEMER: -- and those have not been assigned yet, have they?

MR. PRESLEY: Yep.

DR. ZIEMER: Or have they?

MR. PRESLEY: They have been.

DR. ZIEMER: Oh, okay, yes. Who -- team one is doing -- well, let -- let me ask Kathy, do you have those assignments? What team -- what facilities are the team one -- is the team one group doing? Any -- any --

MS. BEHLING: I -- I was just -- I do not have the assignments in front of me. It was easier for me to pull up the fifth list and so I could get the --

DR. ZIEMER: Okay, let -- let me do the following and Wade can help me on this. If there's a -- if there's a -- for example, if team one is doing a Los Alamos, we'll just switch Phil to another team, and likewise with Josie, if that's agreeable. We'll just go down the line.

DR. WADE: All right, we'll take care of that.

DR. ZIEMER: Emily, uh-huh.

MS. HOWELL: If I can make a recommendation,

just knowing the conflicts without knowing who's assigned which cases --

DR. ZIEMER: Right.

MS. HOWELL: -- if you keep Mr. Schofield with his current assignment, that will be fine. If you wanted to move Ms. Beach to Dr. Melius and Ms. Munn's group, that would also --

DR. ZIEMER: Then we know that there's probably not --

MS. HOWELL: Then there won't be --

DR. ZIEMER: -- any conflicts there, yeah.

MS. HOWELL: -- any conflicts.

DR. ZIEMER: Okay, that'll -- that'll make it easy. Thank you.

MS. MUNN: 'Cause she has the same conflicts I --

DR. ZIEMER: Without objection then, Josie, we'll put you there with...

DR. WADE: Now this is just for the sixth and then the seventh --

DR. ZIEMER: Just for the sixth set and we'll have a new set of assignments. Okay, without objection, those'll be the assignments for the sixth set, then -- okay. Thank you.

Any other items for --

MR. GRIFFON: No.

DR. ZIEMER: Okay. Earlier today Larry Elliott introduced the new ombudsman for NIOSH, but she wasn't here. But now she is -- Denise Brock, identify yourself -- there she is. Welcome.

MS. BROCK: Thank you.

DR. ZIEMER: Okay.

(Pause)

SELECTION OF REMAINING PROCEDURES TO BE REVIEWED BY SC&A UNDER TASK 3
MS. WANDA MUNN, ABRWH

The workgroup on -- workgroup on -- I'm thinking of the title, something to do with reviewing procedures.

DR. WADE: Procedures review.

DR. ZIEMER: Wanda Munn's workgroup met earlier today and Ms. Munn has some recommendations.

MS. MUNN: Technology has failed me. I had a nice little three-page presentation that I was going to throw up on the screen for you so that you wouldn't have to try to deal with the numbers that I don't have copied for you, and for some reason it came up as all Ys on the screen. So I don't think -- that's not w-i-s-e, it is in W, X, Y, so...

I've asked some help in getting copies of the tables that we were working with this morning

so that you would have a better feel for what we were looking at. The question before us was the number of -- which cases we were going to select from the procedures that SC&A was to review for us under their contract Task III. And the members of the Board have this information that we were working from in your electronic files. I'm sorry I didn't have it copied for you because I really thought you were going to have it in front of you. SC&A has submitted us three tables giving the information with respect to what they have already reviewed, what they have reviewed under other tasks, and what they have not yet reviewed. Currently -- during our last meeting we looked at the published documents that were not officially reviewed by them underneath this particular task, but which had been reviewed -- essentially they've already been done because they've done them under one of the other tasks. I'm stalling a little bit because I keep thinking that LaShawn's going to show up with the printed copies of the tables I'd hoped to have for you, but she hasn't yet.

DR. ZIEMER: Well, let me help you stall.

MS. MUNN: All right.

DR. ZIEMER: Number one, there are several charts that the Board members may need to refer to, and it may be that what we will want to do is something similar to what Mark has done, and that is to identify today the procedures which the subcommittee is rec-- or the workgroup is recommending for approval, and then allow the Board some time to digest those, particularly if they need to go back and pull up some files and get the full list. And I don't -- I don't have any feel for whether other Board members outside the workgroup have those other charts. Board members, do -- do you know what charts are being referred to? They are -- they -- SCA -- SC&A had a list of procedures that they had reviewed and ones they hadn't. They had a list that Stu Hinnefeld prepared of all the various procedures. We had a recommendation I think from SC&A as to additional procedures that have been reviewed under the other process and others that they recommended. So there's various pieces of input to this that form the basis for the recommendation. So I'm -- I'm saying if the Board members don't have all

those pieces, you may simply want to identify the particular procedures and then we can take action on it tomorrow.

MS. MUNN: I may be forced to do that since I've given my only original copy to LaShawn to be copied. We'll -- we'll see how far we get here. For those of you with your electronic files up, on January 9th John Mauro sent Lew Wade a memorandum which incorporated the three tables that we started to work from, so --

MS. BEHLING: Excuse me, Wanda --

MS. MUNN: Yes, Kathy.

MS. BEHLING: -- this is Kathy. I believe that when I sent this to you on January 12th, I sent all the Board members my recommendations for the procedures, I believe along with attachments of both Stu's attachment of all the new procedures or -- or all of the listing of procedures, and also that Lew Wade/John Mauro memo, if that's any help to those people who have elec-- who have their computers with them. I think that was January 12. Sorry to interrupt.

MS. MUNN: Yeah -- no, that's quite all right, and that's correct. Most of those -- all of

those attachments were there. The complete list of procedures is not very helpful to us at this juncture because it's too voluminous and doesn't segregate them appropriately. But if you -- are we doing okay finding this information on your --

DR. ZIEMER: Well, let me ask, are their Board members who do not have the needed charts at this time, or tables -- there seem to be several.

MS. MUNN: Tables 1, 2 and 3. Well, the printed copies are coming very shortly.

Let me read to you the titles of the procedures that we looked at last time the Board met, when it was suggested that we might incorporate some of the procedures that had already been reviewed under other tasks. There were eight of those, and they were given in Table 2 of these lists of tables that we're talking about. Shown -- the first one was OTIB-26, external coworker dosimetry data for the K-25 site. The second was OTIB-27, supplementary external dose information for Rocky Flats Plant; OTIB-29, internal dosimetry coworker data for Y-12; OTIB-30, external coworker dosimetry data for

the Hanford site; OTIB-31, external coworker dosimetry data for the Paducah Gaseous Diffusion Plant; OTIB-32, external coworker dosimetry data for the Savannah River Site; OTIB-35, internal dosimetry coworker data for K-25; PROC-0042, accounting for incomplete personnel monitoring data on penetrating gamma ray doses to workers in radiation areas in the Oak Ridge Y-12 Plant prior to 1961; and the final one was OCAS-TIB-0014, Rocky Flats internal dosimetry coworker extension.

Those were given to us as suggestions last -- at our last Board meeting for potentials for incorporating. It was the agreement of the working group this morning that those should in fact be incorporated and should be included as Task III completed reviews that SC&A will have done during the Fiscal Year 2007.

The discussion this morning revolved primarily around what the next six should be. We had six that had been suggested to us by SC&A, but of those six we ultimately chose only two because at this time there is under-- in process at NIOSH a group of revisions or new OTIBs which will be of considerable interest to this Board.

So the choices that we made with respect to the final six for SC&A to deal with were PROC-0044, Special Exposure Cohort; PROC-0086, case preparation, complex internal dosimetry claims; OTIB-0045, historical evaluation of the film badge program at the Y-12 facility in Oak Ridge, Tennessee, Part 2, neutron radiation; TIB-0060, internal dose reconstruction; TIB-0063, Los Alamos National Laboratory bioassay data project; and PROC-0096, initial quality control, technical editing and final quality control of dose reconstruction reports. Those were the six last procedures that were recommended by the workgroup to the Board for acceptance as Task III in SC&A's charge. You will have a copy of those before we -- perhaps when we get back after our break.

DR. ZIEMER: And Wanda, the only action needed is on the last six. Isn't that correct?

MS. MUNN: That's correct. We -- we -- and agreement that the -- the eight which we had nodded our heads and said we'd think about at our last Board meeting, I -- I don't believe we actually took action on those. I think we accepted them as a recommendation, but the

working group had not met and discussed that and I believe that they're -- that's our action today.

DR. ZIEMER: Okay. And Wanda, could you clarify -- when you read the list that the Board had looked at last time and which appear in Table 2 with an asterisk --

MS. MUNN: Uh-huh.

DR. ZIEMER: -- I thought that I heard you say OTIB-0031, which on my table doesn't have an asterisk. Was -- was that on your list, 0031?

MS. MUNN: No, it was not.

DR. ZIEMER: Okay.

MS. MUNN: 32 and 35 were, but 31 was not. It was --

DR. ZIEMER: Right, so --

MS. MUNN: -- 30, 32 --

DR. ZIEMER: Okay, I may have -- I may have heard the -- heard you read that wrong, but if that was -- if that was read earlier, that should not be included.

MS. MUNN: No, it should not, only the eight that had the asterisk in Tables --

DR. ZIEMER: Right.

MS. MUNN: -- 2 and 3.

DR. ZIEMER: Okay. Okay, Board members, is there agreement that we'll defer action on this till you have a chance to see those, or do you wish to act now?

We'll defer action, I think, make sure that everybody has the written copy.

MS. MUNN: Again, I apologize --

DR. ZIEMER: And also -- will there be copies -- there should be copies for the members of the public as well on this so --

MS. MUNN: We'll -- we'll get more copies made.

DR. ZIEMER: -- we'll make sure that everyone has a copy so they can see what we're talking about.

Okay, thank you very much.

MS. MUNN: My apologies again. My computer has failed me. I need another one.

DR. ZIEMER: We're going to have a brief break before we have a public comment session. We have some folks that will be commenting by phone. We want to make sure all of those are hooked in and ready to go.

Lew, do we have any housekeeping items we need to take care of before we take a quick break?

DR. WADE: Nope.

DR. ZIEMER: Okay. We want to begin the public comment period sharply at 4:30, so please take a quick break and then reconvene at that time. Thank you.

(Whereupon, a recess was taken from 4:10 p.m. to 4:30 p.m.)

PUBLIC COMMENT

DR. PAUL ZIEMER, CHAIR

DR. ZIEMER: We are ready to begin the public comment session of today's meeting. As many of you know, in the public comment session generally we're not prepared to deal with individual cases in the sense that if you have a case problem we ask that you take that to the NIOSH case representatives. Now you're certainly welcome to share problems and issues with us, so this is kind of an open session where you can express your views or -- or bring your problems. It's -- it is not a situation where we will delve into individual case histories in any detail, but try to learn more about how the program is working or where the problems lie. And you're welcome to comment on any of the issues that are on our agenda or other issues related to the program.

We're going to hear in a few minutes from John

Ramspott and from Dan McKeel, both of whom have addressed the Board before. They represent the southern Illinois nuclear workers. And working with them is Vincent Kutemperer, who is I hope on the phone, and Vincent has been involved -- has actually published on the issue of accelerator activation, which is one of the issues John raised to this Board when he gave public testimony before. And Vincent, are you on the line?

(No response)

Vincent Kutemperer?

(No response)

I'm not hearing -- maybe we'll go ahead with John and I -- Dan, do -- do you have a -- do you have a number you can reach him independently and -- or John does. I'm wondering, Dan, would you like to go first or would you rather wait till he testified? I --

DR. MCKEEL: (Off microphone) (Unintelligible)

DR. ZIEMER: We'll wait just a second.

DR. MCKEEL: (Off microphone) (Unintelligible)

DR. ZIEMER: Again, Vince, are you on the line?

MS. RAMSPOTT: This is Christine Ramspott. I could call Mr. Kutemperer.

DR. ZIEMER: Okay. Well, thank you, Christine. I think John is just trying to reach -- your husband is just trying to reach him on the line.

MS. RAMSPOTT: Okay. If I need to make a call, I'm available.

DR. ZIEMER: John, your -- your wife has offered to try to reach him.

Also let me check to see if -- if Daronda Pope* is on the line today. We'll be hearing from her I hope this afternoon. Daronda, are you on the line?

(No response)

Daronda is -- represents the Rocky Flats group.

(No response)

Apparently not yet. Let me also ask if there are any other members of the public on the line that wish to make comment today.

MS. CLAYTON: Yes, Dr. Ziemer. This is Dorothy Clayton. I'd like to make a couple of comments, please.

DR. ZIEMER: Okay, Dorothy, why don't you go ahead and proceed, and could you spell your last name for our court reporter?

MS. CLAYTON: Yes, C-l-a-y-t-o-n.

DR. ZIEMER: Okay, thank you. Go ahead and make your comments.

MS. CLAYTON: Yes, I was at the Las Vegas meeting in September, and I presented about four years of records to the Board on my husband's -- the discrepancies in the DOE radiation exposure history. So I have a question for Doc-- well, for Mr. Podonsky, please. Is he there?

DR. ZIEMER: I think Mr. Podonsky has left, but you can cert-- we can certainly relay your question to him if --

MS. CLAYTON: Okay.

DR. ZIEMER: I think one of his colleagues is here who might be able to answer --

DR. WADE: Libby White is here.

DR. ZIEMER: -- Libby White from DOE is still with us.

MS. CLAYTON: Right. I don't know if you remember, but I have about -- almost 1,400 pages of my husband's employment at the Test Site, Nevada Test Site. All these records have been declassified and I -- I -- I wanted to ask him about one specific year. I -- I note that he had mentioned that he was going to go for

records which would prove radiation exposure. I pulled out another year of my husband's records, 1970, where -- this was from May to December of 1970. We had 32 nuclear shots in C Tunnel, these were specifically in C Tunnel. The radiation exposure history for the -- the DOE in Las Vegas is issuing to the widows that I represent, they're all coming back with a zero radiation. However, in the records that I have which shows a number of crafts such as the miners, the electricians, operators, plumbers, fitters and others, and these are from -- this information is directly from the radiation exposure -- radiation safety monitor logbook. These are handwritten records which shows that in these -- specifically in C Tunnel where these men were working, the radiation levels were from 200 millirem to 5,000 millirem. And I was going to ask him if -- I know that these records were put into my hands, but after they were given to -- my husband's records were given to me, the widow whose husband worked for my husband there in the same tunnel, the records were denied. They can't get anything except the radiation exposure history, which is

terribly flawed. I just wanted to know if -- if he would take any of the records that I have in -- as supporting evidence and -- and apply them to the other men that worked in that same area.

DR. ZIEMER: Okay. What I'm going to suggest -- Libby is going to come to the mike, too -- we do need to make sure that -- that NIOSH has at least copies of the records for your husband. And if they have some application to other workers, I suppose those other workers may have to somehow refer to them. Let's see what Libby has to say here.

MS. CLAYTON: All right.

MS. WHITE: I was just going to say I -- I work for Glenn Podonsky, who unfortunately had to leave right after his presentation, but I will take that back to him and I think what -- what you're telling us might give us some leads as to what to look for at -- at NTS and --

MS. CLAYTON: Right.

MS. WHITE: -- and so certainly that needs to get to NIOSH. And also in general it would be helpful to know where those records came from and -- and the types of information that were

included, as you just described.

MS. CLAYTON: Right.

MS. WHITE: So maybe if I could give you my phone number, we could talk separately about -- about this and -- and I can make sure to be in touch with our -- with our contacts -- our records contacts at the Nevada office.

MS. CLAYTON: Okay.

MS. WHITE: And my number is 202--

MS. CLAYTON: All right.

MS. WHITE: -- sorry, 202--

MS. CLAYTON: Uh-huh.

MS. WHITE: --586--

MS. CLAYTON: 586.

MS. WHITE: --3632.

MS. CLAYTON: 3632.

MS. WHITE: And my name again is Libby White.

MS. CLAYTON: Libby White.

DR. ZIEMER: Did you get that, Dorothy, then?

MS. CLAYTON: I did, 586-3632, yes, I did, and --

DR. ZIEMER: Okay, and we want to make sure that -- and maybe, Libby, you can help make sure that the records also will get into -- NIOSH database if they're not already there.

MS. CLAYTON: I did give -- at the Las Vegas meeting I did give Larry Elliott four years of -- of records that showed discrepancy -- terrible discrepancy in the radiation exposure history that is being given out to the widows at the Test Site, and -- so he does have four years in his hands. But there's so much more that's available here that -- that somebody needs to take a look at because --

DR. ZIEMER: Okay.

MS. CLAYTON: -- I had these records in my hands within two days. I had tried to get them for months, and our Nevada senator just called the DOE and -- and told them to get all the records ready. I had them in my hands within two days, so I know records are there that can be used, and I certainly would appreciate it if -- if someone -- if they could use these records, because the men did work for -- I know the men personally that have passed away that worked for my husband.

DR. ZIEMER: Okay. We have an additional comment from Chris from NIOSH.

MS. CLAYTON: All right.

MS. ELLISON: Ms. Clayton, this is Chris

Ellison from NIOSH. I want to assure you that I have been told that we do have those records that you're referring to.

MS. CLAYTON: Thank you.

MS. ELLISON: You're welcome.

DR. ZIEMER: Okay. Thank you.

MR. FUNK: Dr. Zimmer (sic) --

DR. ZIEMER: Yes.

MR. FUNK: -- this is John Funk. I -- I got sick and I didn't get a chance to get my paperwork in. There is a couple things I -- although it -- it slightly applies to my case individually --

DR. ZIEMER: Okay, John, can you hold on just a moment? We had another individual on the line that is scheduled first and let --

MR. FUNK: That's quite all right.

DR. ZIEMER: Yeah, if -- are you okay standing by a few minutes?

MR. FUNK: Oh, yeah, I can stand by for a couple of hours.

DR. ZIEMER: Oh, well, you're pretty hardy today, okay. You might do better than I do. Here's -- Vincent, are you on the line now?

MR. KUTEMPERER: Yes -- yes, Dr. Ziemer.

DR. ZIEMER: Yeah, welcome. You may proceed with your comments.

MR. KUTEMPERER: Okay, thank you very much, Dr. Ziemer.

As -- my name, as I stated before, is Vincent Kutemperer and I'm calling from Brookfield, Wisconsin. I understand that this is a meeting of the Advisory Board on Radiation and Worker Health. I also understand that there are members that -- in this meeting from NIOSH, ORAU and Board auditors and there are also members representing the Department of Labor and also there are members of the public.

Thank you very much for taking my call.

Let me introduce myself and give you my background. I was a professor of physics at the Milwaukee School of Engineering from 1968 to 1978. Before that I was teaching physics and math at Lakeland College in Sheboygan, Wisconsin. While I was at Lakeland College I had the opportunity to work on a nuclear reactor at the (unintelligible) National Lab in Chicago. I use to take the students with me to participate in various types of student experimentation at the reactor,

(unintelligible) National Lab. In that process I got interested in what is known as the neutron activation, and later on when I came to Milwaukee School of Engineering in 1968, I continued to take interest in nuclear reactor experimentation and the process of neutron activation.

I also had opportunity to go to (unintelligible) Nat-- excuse me, Oak Ridge National Lab in Tennessee. I also had participated in other types of scientific activities at the Texas A&M University, Kansas State University and other universities in the midwest.

When I became professor of physics at Milwaukee School of Engineering, I came across the 25 million electron volt Betatron that the school used to do industrial radiography. And at that time I became interested in what is known as the photon activation and I started to compare photon activation with the neutron activation. And needless to say, since I had the 25 million electron volt Betatron at the Milwaukee School of Engineering, I started to learn more and more about it and I started to understand the

phenomenon of photon activation in more detail than what I originally wanted to do.
(NOTE: During the following portion of Mr. Kutemperer's statement an unidentified person was also on the line. He seemed to be unaware his comments were audible. This could have affected the accuracy of the transcription as two people were speaking simultaneously.)
In that process I discovered that when industrial radiography is done using 25 million electron volt Betatron, there is a tremendous amount of radiation used in both industrial parts. I became very curious about finding out the level of activity that is induced, and also what effect it might have on people who handled these industrial parts. And in -- in -- in that regard, I did a lot of experimentation and -- and in 1974 I published a paper, which is titled "Photon Activation of Materials Subjected to Betatron Radiography." The conclusion of that paper, which was published in 1974, was that not too much attention was given to the sample that is being radiographed by this powerful X-ray machine, and so I pointed out the fact that there could be some

health hazards associated with activation of these materials which are being radiographed to determine if there are any (unintelligible) inside. That was in 1974.

That paper was followed up with another paper which is referred to as "Photon Activation of Alloys and Elements Used in Industrial (unintelligible) High Energy (unintelligible) Radiography." In that paper I went into more details about the activation that I noticed in different types of industrial parts that were radiographed. Now keep in mind that some of these industrial parts were very sizeable. It ranged in size from -- for example, one pound, ten pounds to castings that weighed a couple of tons. And these parts were exposed to several thousand Roentgens of radiation and in some cases the exposure lasted several hours to a couple of days. And (unintelligible) situations where phantom castings were exposed to radiation and after I published these two papers, these people who were working there were aware of the radiation (unintelligible) in it and as (unintelligible) of that, especially when they knew that there was a nickel in -- in

these alloys, they waited at least a day or a -- - day or two to go near the sample that was just radiographed because, as you know, nickel becomes radioactive and the half-life of the isotope that's produced is approximately 36 hours. So anyone will say that if you have 36-hour half-life, you may want to wait at least a couple of those half-lifes to go near it. Well, anyway, after I published these two papers, I became convinced that most of the workers that are doing this type of radiography may not -- may not know the extent of the activation and that if these people come across these material and handle them without knowing that they are radioactive, and then later on they try to store these in a place before it is shipped to wherever they came from, and when it goes to the places where they are shipped to, they might polish it, grind it, and in that process if still there is a residual radioactivity left -- which I believe that -- that there are, if they grind and polish, they might be ingesting radioactive dust. And if they ingest radioactive dust, as most of you know, all of you know, that presents, in my

opinion, a health hazard situation.
And so with these things in mind, in 1976 I submitted an application to NIH, which subsequently went to NIOSH, and the purpose of that grant was to ask for some money to help me further -- further evaluate and understand the process of activation that happens in these industrial -- industrially radiographed parts.
Well, the result of my application was that initially NIOSH refused to fund it, but I had a further discussion with NIOSH officials and then they decided that there are merits in my application, therefore they agreed to fund this application. But it never funded.
Now during those years I was still pursuing the activation process and as a result of my two publications, I was invited to participate in two international conference on the application of photon activation in trace element analysis, and these conferences were sponsored by IAEA, International Atomic Energy Agency, headquartered in Vienna, Austria. So I participated in one conference in Vienna and another conference in (unintelligible) France, and what they did was to look at the trace

element analysis of human hair using photon activation. There were -- if I remember correctly, there were 15 scientists from all -- all over the world, and I myself had the privilege of representing the United States in that -- in those two meetings, and we talked about all the different techniques used by different scientists in analyzing trace elements in human hair.

And later on the following year I was invited to participate in a -- in a conference in a similar fashion which was to be held in Tokyo, Japan, but by that time I had changed my line of work from being a scientist and trying to split atoms into trying to split land. Personally I'm a land developer and a builder, and I practically lost interest in radiation and the effect of radiation in -- in biological samples since I was trying to establish my expertise in. And in 19-- excuse me, in 2006, on or about -- on or about the end of August, I had two very interesting letters from two people from St. Louis. One is a Dr. Daniel McKeel. I'm sure most of you might know who this person is. And then there was another

letter from John Ramspott, who wrote to me regarding them finding my publications and I asked them why and how they came across my paper, and then they talked about the people who are doing work at the (unintelligible) in Illinois and in St. Louis, and they talked to me about almost 800, 900 people who have become cancer patients and they have tried to relate their sickness to the fact that these people worked in these industrial places where they heavily used Betatrons, 25 million electron volt Betatrons, to radiograph uranium ingots. Well, that made me think about what I did 34 years back and the fact that I had sent this application to NIOSH and asked for a grant to further investigation what I found out in 1974. And this is how this process started with me and since August of 19-- excuse me, August of 2006 I've spent a considerable amount of time looking through my own papers. By the way, by the end of 1978 when I left the Milwaukee School of Engineering and went into real estate, I had a total of seven publications and a large chapter that I wrote with several other scientists from the United States, and this

appears in the *Handbook of Clinical Laboratory Science* and this also appears in the Nuclear Medicine section of the book.

So I started to review all of these things and I started to think about actually what might have happened with the radiation workers at General Steel Industries. And I was told that these people were working on uranium ingots and these samples were irradiated several times with several thousand Roentgens of radiation from Betatron. And with my previous work I -- I started to get so concerned about these people because from my own experience, my thinking was that if -- and example is they radiated -- the radiation from that 25 million electron volt Betatron, my reaction is that I don't want to be near those exposed materials at least for a half an hour because as -- as is very well known, the most prominent reaction that happens is the gamma (unintelligible) reaction. And if you look in the periodic table, just about every element in the periodic table gets activated by gamma (unintelligible) reaction to some level or another.

But the question is that when you look at the massive casting that contains the different elements, and when you expose them to different amounts of radiation, there is considerable amount of radioactivity in this, especially in the first several hours. And those people who never knew that this was happening and they -- they went near it and handled it with their hand and they move it and store it and shipped -- (unintelligible) it and polished it, my concern was that these people might have been exposed to tremendous amount of radiation over a period of time.

And as all of you know, radiation effect is a cumulative effect. And if it happens once or twice in your lifetime or a couple of ti-- well, you know, at different times in your lifetime, that is not significant. But for those people who are in and out of the facilities and around the Betatron five days a week, 52 weeks a year in 30 years, my thinking was that it was very significant and it might have caused some damage and -- and this was my concern in 19-- 1974 and that's the real reason why I -- why I applied to NIOSH for grant to

study this, but it was -- it never happened. Now I know that there are lot of centers in the United States where they are concerned about explosion of a small dirty bomb by terrorists and things like that, and lot of people are looking at the effects of that kind of a bad happening. And my belief is that -- now when you expose, for example, an alloy consists of nickel and copper and other elements for a substantial amount of time, there's a lot of radiation coming out which is the same sort of radiation comes out of a -- a small dirty bomb, but the level of radiation might be different. But I'm not here to say that I know exactly the type of radiation coming from such a situation, but it -- they're somewhat comparable, in my opinion. That's my opinion, that unfortunately this was not studied before and now I know that there are several centers where they are studying it.

But anyway, the bottom line is that I believe that there is substantial amount of radiation coming from all these industrial parts that are being radiographed. I personally had an experience three -- three or four weeks back

when Dr. Mc-- McKeel and John Ramspott and myself visited a facility where they have a very, very old Betatron and they were radiographing industrial parts and I refused to be in the Betatron room before radiography and after radiography because, as you know, that Betatron itself presents a radiation -- because, you know, the parts that are in the machine itself, they have been activated several times in several years and I believe that there is radiation coming from a source of leak and the material itself and the reflection from the floor and reflection from the roof. There's all kinds of radiation coming out of that, so I myself refused to be in that room, especially when I know that this is a 45, 50-year-old machine that has been operating day in and day out.

So I believe that this is a situation that has to be looked into and the workers at GSI who worked there for several years, I don't know to what extent they were aware of these, but it is my belief that -- isn't -- that it is fair to them for this group of experts chaired by Dr. Ziemer is looking into it so that these people

can be compensated if the Board decides that they have been exposed to radiation in the service of the nation because most of these industrial parts were radiographed and these parts went into all kinds of nuclear governments for the government and I believe that, you know, there was a considerable amount of radiation that came out of this.

Now Dr. Ziemer, it's very interesting that after I got the letter from Dr. McKeel and John Ramspott, I -- I talked to John and said John, I believe that the same phenomenon happens in medical -- medical (unintelligible) that are around all over the country, and I said John, I don't have the time to look into it, but why don't you do some research. And he came up with a paper where Dr. Ziemer and another health physicist from Columbia University School of Medicine has published the same type of activation seen in (unintelligible) materials around (unintelligible). And I was so surprised to see that because the same findings were published by me 30 years back about the fact that these materials that are exposed to radiation become radioactive and the

fact that Dr. Ziemer himself wrote this paper is (unintelligible) of findings that I came up with this material 30 years back.

So my observation in this regard is that these workers that worked in these places might have been exposed to a lot of radiation without their knowledge. So I -- I'd like to answer any questions if any of the radiation member-- member committees have any questions.

DR. ZIEMER: Okay. Thank you very much, Dr. Kutemperer. Let me see if any of the Board -- oop, hang on.

Thank you very much. Let me ask if any of the Board members do have questions for Dr. Kutemperer.

MR. KUTEMPERER: Okay.

(No responses)

DR. ZIEMER: Okay. Well, we thank you. We're going to hear from one of your colleagues now, from John Ramspott, and John's here in person. You're welcome to stay on the line and hear John's remarks and then Dr. McKeel will follow that.

MR. KUTEMPERER: Okay.

DR. ZIEMER: Then we'll get to John Funk after

that.

MR. KUTEMPERER: Okay.

MR. RAMSPOTT: Again I thank the Board for their time and their consideration. I've spoken in front of the Board before about the activation issue at General Steel Industries. And I'd like to start out -- I'll be fairly brief, but I found an article about -- oh, I guess a week ago and was able to actually recover it. And I think -- be pretty interesting at this moment, if I may.

(Reading) The huge, super-secret Betatron which generates an X-ray so powerful and dangerous that the entire apparatus must be enclosed in a three-foot wall was completed a couple years ago. Wartime security kept it hidden until last week. Then even General Electric did not tell quite all, but GE did give a fair description of how the great gadget works and some broad hints about a few things that it will do.

The Betatron, a close relative to the ordinary transformer which raises or lowers voltage of an alternating current, is an accelerator. A whopping electromagnet is energized by heavy

current flowing through two coils made of one-inch copper rods.

Then skip on just a little bit here. (Reading) The X-ray shines through thick steel castings as if they were made of ice, but it will do other, even more interesting things. A silver half-dollar, for instance, held briefly in its beam become dangerously radioactive. The rays knock neutrons out of solar atoms, cutting them into unstable silver isotopes which breaks down into cadmium, giving off powerful streams of electrons. Some silver, too, is turned into palladium, while some of the copper in the coin's allow is turned into atoms of nickel.

Now that kind of sounds, I thought, what Mr. Kutemperer was talking about and what we've thought all these years -- or recently. The date on this article -- and you guys know me by now. I try to find everything I can on them, so I have the original, which I bought, was dated Monday, October 29th, 1945, *Time* magazine.

Now it's not the exact Betatron, because the one in the article -- and I have a web site for you folks that you can pull it up.

UNIDENTIFIED: On the phone.

MR. RAMSPOTT: It was 100 million volts. We have 25 million volts.

UNIDENTIFIED: On the telephone.

MR. RAMSPOTT: We have documentation from Allis Chalmers saying that the most effective Betatron which will cause the most attenuation is a 20 to 30 million volt one. Over that is like a -- you gain nothing. So what we're saying is is what it says in this article, and I actually intend to follow up with *Time* magazine, and I'm going to send them some of my stuff and say, you know, you wrote this in 1945. I'd really like to see what you think about it now. Do you have experts who would look into it as well, because this is exactly what they had -- we think -- at GSI, and it sounds like the Missouri School of -- or the Michigan School of Engineering, as well, where Mr. Kutemperer worked.

Now when we start talking about doing dose reconstructions, the main reason GSI ended up on the map for this program was the uranium ingots. But with more research -- and these are federal documents -- they weren't just

ingots. There were dingots, there were slabs, there were slices, there were billets, there were rods -- and this is all in print. Part of it's in that 400-page book that I put together for you a while back.

Now the other document we have, which is from Mallinckrodt where they made the ingots -- and the time frame covered at GSI was 1953 to 1966 for the uranium work. Well, that time frame means that the ingots had to come from the Destrehan Plant and from Weldon Spring, because Weldon Spring didn't actually go into production till '80 -- or '58, so it came from two sites. And with some more research and going out to the Mallinckrodt Weldon Spring -- they have a visitor center, actually -- telling them what I was looking for, like to know more about the ingots, they pro-- they actually gave me a document. Those ingots are not 100 percent pure. They're 97 percent pure. Then it's kind enough in the article to tell us what else is in it.

Well, then doing some more research, found out none of the ingots are pure, 'cause over that span of time they had a little bit of

everything. Some of the things that Mr. Kutemperer mentioned -- nickel, cadmium, manganese -- things that do some pretty interesting things, kind of like the coin, under a Betatron beam will cause a lot of problems. Now that's just the ingots. And the ingots -- they were 3,000 pounds. Most of the testing that's done now with Betatrons and accelerators, and even Mr. Kutemperer mentioned it in his article, and there are a lot of other articles, they use things the size of a pinhead. They don't use big subject matter because mass is really important when it comes to radioactivity. The bigger, the more you can put off. I guess radioactivity-wise, mass is important. Well, a 3,000-pound ingot is pretty big.

So we started trying to do the research and, you know, we've had several conversations with NIOSH, been very helpful, trying to do a dose reconstruction on something that's that vague, that big, that different -- we don't even know what was in the ingots. We don't know what went over there -- we do know from invoices which are on the web -- you know, I have ingots

-- or actually invoices that say the Atomic Energy Commission at Mallinckrodt spent $3,500 in a quarter for X-rays -- at a buck apiece. Well, were those invoices for ingots, ingot slices, slabs or billets? Did they shoot it one time, did they shoot it four time-- I don't know how you can do a dose reconstruction if you don't know what was in the ingots or how many times it was impacted. And on the ingots, we're told by workers -- we have -- and as I'm speaking, there are signed affidavits being finalized now, and we did provide these documents to everyone. They had to (unintelligible) those ingots four times -- I think I mentioned one time in one of my other conversations. Well, now we are talking about 100 million volts. You don't even need 100 million volts, though. They say that the activation point -- or the threshold, I believe is another term they use -- for iron is about seven million volts. We're way over that. So there's a lot of activation at that site with the uranium metal.

But then following up a little bit more with the Battelle TIB-6000, which we discussed in a

conversation and have pretty good understanding of it now, I think it clearly says in there all radioactive material during the contract period -- which 1953 to 1966 -- must be included in a person's dose reconstruction. Now it doesn't say all radioactive material ingots, it says all radioactive material. And there was cobalt at that site, there's iridium at that site, there were the activated castings and some people test two, three -- or maybe two-ton castings. Well, these guys are testing 60-ton castings. There were nuclear power plant parts. There were Polaris submarine parts, 30 different alloys. I think it's impossible to try to do any dose reconstruction when you can't put all that together, so we don't -- we're definitely asking for the SEC actually now.

Now know there's a TIB-6000 appendix being worked on. How do you work on something when you don't have all the details? That's got to be tough. So we've tried to provide the information. We don't think it can be done, not with the material that we know was there. That really just covers the article. I have

the documents, and I tried to help more. There's a Los Alamos document, and we will ask Department of Energy to help us with this 'cause there's a document at Los Alamos library and it's document LAMS-2064. Title's pretty interesting, "Non-Destructive Testing, Report on Uranium." Well, I tried to get that, and the reply back -- (reading) Due to a mandate from NNSA, the Laboratory and Research Library policies, we are providing Los Alamos technical reports to government and military register addresses only.

Now I tried to reach them, tried to get it. I went off of their web site. And they said no, so I think that's at least a very interesting report to want to maybe take a look at. Now I can't guarantee they were testing it with, you know, an accelerator. I kind of guess it is, though, 'cause it's going to take something like that probably to go through an ingot, if that's what it was. My guess is it's probably something smaller. But that report'd be pretty interesting, I think.

Now what I've done is put together copies of all the web sites that I've mentioned that I'd

like to give you. And I promise, I'm not going to read all of Vincent's documents. And I'm going to give you a copy of them because before -- I talked a lot of times about here's the -- the hamburger and I got the bun and -- so this is the beef right here. These are the technical documents which should match up to everything that he said, and we have some other ones from him, as well. And we'll be happy to provide -- for everyone, that was the whole intention, working together with you. So if I could hand out these documents here, I appreciate your time. I'm going to be here a couple days. We've got backup proof on everything we have here. We'll be glad to assist you. And I've asked a couple times if anybody thinks nah, you've got the wrong stuff, Ramspott, please let me know 'cause that's how I'll find out if I'm wrong, but I don't think I am. Thank you very much.

DR. ZIEMER: Thank you, John. Thank you, John, very much. And we'll follow up then with Dr. McKeel.

DR. MCKEEL: Hello to the Board and to all present. I'm -- Vince Kutemperer's remarks and

John's sort of set the stage for what I want to concentrate on, which is really some of the processes connected with the GSI 83.14 SEC which we hope to get approval for and a recommendation for soon.

I just wanted to mention -- one of the things that was not quite clear, really not mentioned, was the 25 MeV Betatron not only produces activation products, but is also capable, through the photon process, to actually split uranium, and does so in both a symmetric and asymmetric way. And two papers that we have provided previously to NIOSH and to Battelle, as we did several months ago, actually all of Mr. Kutemperer's major works -- those two papers, one in particular by Schmidt and Duffield*, show that the symmetric and asymmetric markers that they use, which are cadmium-117 and barium-139, as markers of both the symmetric and asymmetric fission -- those markers themselves are radioactive. Cadmium-117, the half-life is about 3.36 hours and barium-139 is about 86 minutes. So if you use Vince' reasoning -- I mean th-- we know that at GSI they bombarded Mallinckrodt uranium ingots.

I believe, from the testimony of the affidavits that we have previously provided a long time ago from several of the workers, that they shot the ingots with the Betatron four exposures of an hour at full power, so a total of four hours per ingot was the radiation. The men handled those ingots before and after the shot with their bare hands, no protection at all. So -- so that's the other thing. We have that phenomenon.

I want to turn next -- and what I want to say to -- what I think basically is a timeliness issue. There has been a tremendous amount of research done on both sites by NIOSH and by ourselves. We certainly tried to provide almost all of the information that we find to NIOSH, and we have always assumed that that information is available as well to the Board and anyone else who's interested in this program. And -- and yet, in spite of all of that and in spite of us now being 16 months into the Battelle contract, we still are faced with the fact that we have more than 600 claims from this site. We've had four dose reconstructions. We've gotten redacted copies

of all four of those dose reconstructions and none of them factored in the Betatron or any of the other radiation sources that we just mentioned at GSI. And I think we've well documented that these were significant radiation sources. The only thing that was considered in the dose reconstructions was the uranium metal itself, covered in TIB-004. And since that time and since we know that, Larry Elliott has acknowledged that that TIB is not relevant and is inadequate for the work we are about to go -- for calculating doses for any of the GSI people.

So fortunately we have a partial TBD-6000 from Battelle, and we needed some clarification of that document. We knew going into our session which Jason Broehm was kind enough to arrange for us on January the 4th of this year with NIOSH -- there were about ten people represented, four from our southern Illinois group and the rest from -- the project manager from Battelle and -- and a number of people from OCAS were there on the -- on the call. We thought that this was a information exchange session, and it was very important to have the

communications be as clear and accurately recorded as possible and therefore we requested that we be allowed to record the session, just as we have done for all our affidavit meetings and the NIOSH outreach meeting. We offered to pay for a court reporter. We offered to do all that. And we were told that there is a OCAS-NIOSH policy that basically is formulated from the CDC that absolutely forbids people to record briefings. And we later learned also this extends to interviews in which the people themselves were a part. I was quite surprised at that idea because it seemed to me that that's the only way that such proceedings could be accurately documented, just as Ray is doing for these proceedings.

I also talked to my daughter, who's an attorney in St. Louis, and was told by her that Missouri law in fact allows unannounced tape recordings of phone conversations if you're a party to that conversation. The only reason this is relevant here is it goes to the accuracy of information exchange, which I think is crucial, and it also goes to a policy which is adhered to which I think is a very, very poor policy

and needs to be re-examined immediately.
Anyway, what -- what we did for this conference is we gave Larry Elliott 34 questions, 20 about Dow that I had and -- and GSI, and 14 that John Ramspott came up with, and Larry very nicely guided us through each of those questions and had prepared answers for all of them. I wrote notes as fast -- as fast as I could, trying to keep up and participate in the conference, and -- but nevertheless, at the end of that one of the crucial matters that evolved was when would we be getting the evaluation from NIOSH of the Dow SEC petition, which we'll hear more about tomorrow. What I heard him say was that that would be delivered sometime during the third week of January, and I wrote down in my notes 16 to 20 January, and Larry and all the people at OCAS apparently heard quite clearly that they said January the 24th. So that's just one example of miscommunication. I'm not sure who was right. I'm not sure who was wrong. But the point is, if it had been transcribed and recorded, we wouldn't be having any doubt about that.
Why was that important? Well, it was important

because we had this meeting coming up and we needed that evaluation report in time to evaluate it, as did the Board. And we -- we really could not get it any later than that, so -- so that was an important thing. We still, by the way, do not know when we will receive that report except I understand from a report that LaVon Rutherford is about to give that it will be sometime in April. And I would note that that's eight months after our 83.14 for Dow was announced to us.

With respect to TBD-6000, I think this is extremely important. During the January the 24th conference we -- we discussed the fact that the heart and soul of that document is the site-specific appendices, so there'll be one for Dow and there'll be one for GSI. We still do not know when they'll be available. They're being worked on, we were told.

Further, there's a section in there for thorium, Section 7.2, which is marked reserved. And that section is completely and totally blank, so we still don't know when that will be forthcoming, and that directly relates to the Dow SEC and its thorium metal work.

We were also told then -- we were quite interested and one of the -- one of the questions we had was well, when will we be able to see the methodology you all will use when you say you can reconstruct doses for GSI? That's the reason we're -- have not been awarded an 83.14 SEC, so it's crucial that NIOSH be able to validate and verify their methodology. Anyway, they said that that will be forthcoming. We really don't know when. We were told some hints, and that is that the uranium work would -- part of the dose exposure would be calculated by Battelle and that the rest of the sources at GSI, the cobalt, the activated products -- Betatron, the iridium and so forth -- they would be calculated by OCAS in-house. So that's where we stand on that issue.

We are not clear today that all of those other factors that Vincent and John have just -- pretty eloquently, I think -- provided further documentation were important. We've still not be-- have not been told definitely that they will be factored into how NIOSH can calculate doses at GSI. We frankly flat out believe it's

totally impossible. We've tried to give you the reasons for it. There are too many uncertainties. There's too much missing data. There is no comparable coworker data available. There's no film badge readings. There's no bioassay readings and -- and that was true the last time I talked to you and it's still true today, that NIOSH has or -- or, you know, that could be used for the dose reconstructions. Okay. The other thing I'd like to mention is about an issue that I think probably affects many different sites, and that is the issue of our affidavits. And we provided several months ago a set of DVDs with videotape recordings and verbatim court reporter transcripts of three meetings we had at each of the sites to collect data that would help support our SEC application. We, at the same time, obtained two types of releases from all of those workers which addressed Privacy Act and HIPAA regulations, and they were drawn up by one of the leading Illinois law firms that's helping us -- pro bono, for free, no strings attached -- and those releases passed scrutiny from all of their people. And those releases gave me

specifically authority to use those documents in any way that I saw fit to support our SEC application. Well, one of the ways that I think it -- they can support our SEC application is to be published on the OCAS web site for everybody to read and see, in addition to being available through the -- you all's normal distribution channels, O drive, et cetera, for you all to see.

So I tried to get clarification for a long time when they would actually be put up on the web. After we got the -- had the meetings and those transcripts, we then converted those into affidavits which were signed and notarized by each of the affiants, and those were also provided. Yesterday the affidavits were published on the OCAS web site in redacted form. And you might say well, you know, what's wrong with that? Why -- why do you -- why do you need to know the people's names? And I might agree with that. You don't absolutely need to know that. But the redaction process took out the people's jobs, and they also took out the la-- the ending date of their employment. So you can read there when they

first started, but you can't tell when they ended, and this information -- which I will discuss in more detail tomorrow -- goes directly to the heart and soul of our SEC class definition.

So I think the process that needs to be clarified is -- I thought and I think -- is why can't those affidavits be published and those transcript, just the way I sent them, as-is? I have authority, I claim, to grant that that be done. And -- and the people involved have issued signed, notarized statements giving me that permission.

So I tried to discuss that through Laurie Breyer -- who, by the way, has been immensely helpful to our cause, so I'm not being critical of her; she's really acting as a conduit. And I asked her, I said well, you know, we have a law firm that's helping us. Why can't we sit down and discuss this with their lawyers and -- and -- and Joe Kuzmerczyk*, who's our -- member of the Southern Illinois Nuclear Workers, he asked the same question, and we said and -- and at the same time we'd like to clarify that with your FOIA people so we can find out how you

interpret the Privacy Act and how we interpret it and -- and come together on some common ground. Well, we were -- we were told, and this is really the -- the relevance of right now. We were told that the attorneys that OCAS employs only talk to the agencies. They do not talk to petitioners and they do not talk to the public. The request to talk to the FOIA officer has been made twice, and we've gotten no answer about that.

So the reason I'm bringing that to you all's attention is there need to be policies about these sort of things. I personally think it's deleterious to the whole process to not allow one attorney to talk to another attorney to get things straight. That's all we're trying to do, to get things straight.

Finally, the -- the third thing that I would like to talk about briefly is again to express great thankfulness for the work that Libby White has helped in getting us copies, the Board, SC&A, all of us -- NIOSH and ourselves -- copies of the main Dow/Rocky Flats AEC contract. And -- and as appreciative as I am of that and as relevant as that document is to

our SEC, I've also asked for additional information at least three or four times -- to the agencies, the subdivisions of Department of Energy, and more recently to Libby herself. And I know she's tremendously busy and so forth, but several of those documents -- like the administrative index to the administrative record at GSI when it was cleaned up by the Department of Energy in 1993 -- I've simply not gotten an answer about that. You know, today I think there's some movement forward, but it -- it still remains that from the public's point of view and SEC petitioners' point of view that I still don't think that our needs for records are being properly addressed at the Department of Energy. And I listened to Glenn Podonsky's very encouraging remarks today. I was encouraged. I was impressed. But nevertheless, you know, I did notice that among the people he was saying that he could help, the public was not included in that. And in this program, the public and the petitioners are really important, integral part of this process.

So I just think we've all got a lot of -- lot

of work to do. I'm -- I'm highly encouraged that the work has begun. And that's really all I have to say for tonight. Tomorrow we have some -- we've learned, as Vincent said, some more information about Betatron operations that we think y'all will find very interesting and I look forward to tomorrow.

DR. ZIEMER: Thank you again, Dr. McKeel, for those remarks. Now John Funk has been waiting patiently on the line. John, are you still there?

MR. FUNK: Yes, Dr. Zimmer (sic).

DR. ZIEMER: If you would proceed.

MR. FUNK: Okay. I have a -- a prepar-- a letter that I was going to send the Board. I'd like to read it. It does refer to my case, but my case is not unique for all. There's many other people suffering the same injustices and the same problems that I'm having so I want to bring some of these to your attention, how long it's took me to get a lot of these straightened out. I'll read this letter and I'll go back and show you from other documents that -- from another letter that NIOSH sent that a lot of truth is not being told here.

It says Dear Dr. Zimmer (sic), Dr. Lewis Wade and other members of the Advisory Board on Radiation and Worker Health. My name is John Funk. I have a commu-- I have communicated previously with you about the situation regarding former workers at Nevada Test Site. Recently I have received my third draft dose reconstruction, and once again I have run into serious problems. I have identified 37 errors in this draft. Further, I can tell you that Nevada Test Site Technical Basis Document, TBD, contains serious errors and omissions. Many of these errors were pointed out through the SC&A review, yet there has been no substantial changes in the TBD as posted on the NIOSH web site.

In my own case, I am not -- I have not been allowed to talk to a health physicist about my dose reconstruction. Rather I have been forced to talk to a Mr. David Shatteau*, who has identified himself as an office manager, or other people who simply will only give you their first name and not their last name, leaving you with not being able to know whether you're talking to a health physicist or to even

know if there is a conflict of interest -- the person doing your dose reconstruction. Mr. Shatteau has refused to write down information I have provided without extensive editorializing or distortion. Such refusal is hardly claimant favorable, and I find it very disrespectful. I have refused to sign this dose reconstruction document as I feel NIOSH is trying to bypass my hot potato on the DOL.

I have sent Mr. Dave Sundin of NIOSH/OCAS a letter with an itemized list of what was wrong with the third dose reconstruction draft, along with supporting documents. I'd like to share with you some of my concerns.

First, the testing of nuclear weapons, whether above or below ground, was an unique, dangerous undertaking. One of my principal complaints is neither they -- they -- neither the identified primary authors of the TBD nor the person doing dose reconstruction have any experience with this unique undertaking. Yet they consistently deny the validity of experience of many workers who did work there.

Turning to the specifics of my own situation, here are some of the prominent errors in my

third draft -- draft reconstruction. My employment dates are incorrect, despite my repeated attempts to correct this basic information. My work -- my areas of work are incomplete, as Area 12 is left out. This is where the tunnels were located. My hours of work in the tunnel are incorrect. I never worked less than 70 hours a week, but the draft indicates only 50. My payroll information will prove this. I am listed as a part-time worker. There was no part-time worker at NTS, at least in the forward area. Persons were either full time or laid off. Your interviewers say there was no red badges. Red-badged persons were allowed in secure areas. I sent Mr. Sundin a page from the RECo handbook that clearly states a red-badged person was allowed in secure areas. There are false statements about my having full body scans and other tests. I refused such tests and I have documents indicating this. The TBD indicates that only miners worked in the tunnels. I can document that 18 other crafts worked in the tunnels. Miners were used to mine the rest -- the rest of us did all the work to set up the tests and

associated complex equipment. There's an important issue of reuse equipment from previous shots. NIOSH claims any such material was processed through a rad-X* yard. Such a yard did not exist in -- such a yard did exist in Mercury, 75 miles away. But we never sent material there unless it was going to be surplussed.

The interviewer has mixed up my statements about tunnel and down-hole work. There were three different configurations of tests in Nevada Test Site. Above the ground, these tests are responsible for wide-- widespread contamination at the NTS. We used to drag large drill rigs and (unintelligible) over this contamination with the power of up to six (unintelligible) bulldozers. The unique type of resuspension was not discussed in the TBD or in the SCA documents.

Below ground, down-hole, RECO had very large drills that were used to drill vertical holes and do -- in which devices were placed and the holes (unintelligible), sometimes emplacements were in (unintelligible) at the bottom of the shafts.

Below ground tunnels -- main tunnels were mined out and tests were conducted in (unintelligible). The main tunnels were used over and over, even though the main tunnels became quite contaminated with tritium and fission products.

Each type of test created its own unique set of problems. In all cases there was a need to get diagnostic information as soon as possible. Some of these underground tests vented massively and the issue of the contaminating main tunnel was on occasion so serious that many workers were exceeding the dose limits. I worked on both types of underground tests. Officially I was a carpenter, but I did -- also did a lot of welding and fabrication of steel work. I also worked with persons from the National Laboratory to build or rig special equipment that the scientists wanted for their tests. One unique experience involved assembling a communications satellite for a test of survivability in the vicinity of nuclear weapons. RECO's employee evaluation report cards indicate this type of work we did. Neither NIOSH nor ORAU is using the important

source of information.
I can provide you more information on weapons testing or on the errors in my draft dose reconstruction. However, I think the above is more than enough to indicate that the dose reconstruction process being used at the NTS is seriously flawed. Unfortunately the persons doing the interviewing and dose reconstructions -- those have no concept of what really went on NTS, and they refuse to learn.
Finally, I think you know that medical screening was offered to workers for the purpose of early detection of illness. Medical screening questionnaires included information on lifestyle, ethnicity and family medical histories. This information is protected by law, and should not have been used for any other purpose. Yet NIOSH and DOL have these files, without the workers' permission, and they have admitted to using them. Thus the noble purpose of these exams have been thwarted and this information is apparently being used to disqualify claims on the basis of lifestyle factors. Because the NTS TBD is so flawed and the process is so inadequate and worker

unfriendly, I respectfully request the members of the Board stop any further dose reconstruction for NTS workers until this process can be straightened out.

Now I want -- I just received a letter back from NIOSH. They have conceded, after six years, that my workplaces were incorrect. They have conceded that my areas of work were not complete, although they still hold true that there was a rad-X yard. I'm still trying to find somebody who remembers one out there, but I still can't do it. And they seem to lie with impunity. I would like to -- well, there's a section here where they say -- excuse me, I'm getting in my papers here -- they go through section by section by number and -- just one second. Okay -- that's not it. I beg -- I just beg you for you time, just for a little second here. (Unintelligible) somehow along the lines got mixed up -- oh, here we go.

Okay, a letter that NIOSH sent to me, they concede most of everything, and in here there's one statement in particular, and I have a page from my draft dose documents, and I'm going to read you the line from that document, then I'm

going to read you their remarks about that line and I'll let you be the judge.

(Reading) According to the interview, Mr. Funk worked in tunnels performing pre-event work which included welding and cutting of materials left in the tunnels from previous tests while in the tunnels.

Okay. And it's line eight of the letter they just sent me the other day (reading) Our report does not include a statement about using old steel to build bulkheads or a description of (unintelligible) practice concerning how materials (unintelligible).

You see what I'm saying? They just lie about it -- I mean they just -- anything they want to say. Now there is a problem here -- there is a con-- we have a right to know about conflict of interest when somebody calls you on the phone. I believe an applicant has a right to know that person's first name, that person's last name 'cause there is a lot of conflict of inter-- I know the Board doesn't want to discuss it, but one example I'd like for you to look at is MJW has a total 100 percent conflict of interest. There's 18 people on their site, 11 dose

reconstructors all acknowledge they have a conflict of interest on the Nevada Test Site and the only reason the other seven don't because they're computer techs.

There's also a rash of nepotism throughout this thing. I've uncovered 40 cases of nepotism. This nepotism goes all the way up to the Board itself and I'd like to point one of them out. Mr. Poston, Sr., his son is a dose reconstructor. His wife was a dose reconstructor a while back, or a relative of his. This -- this thing -- just rampant nepotism.

Now I'm sure this may not be against the law, but I'm just wondering how Congress would think about this if they find out the EEOICPA has been turned into a private piggy bank for a select group of people.

That's -- pretty much covers what I was trying to get across and -- oh, there's one last point. In the closing remarks in my letter I got from NIOSH, (reading) The information you provided does not require a revised draft dose reconstruction report. If we do not receive your signed OCAS-1 form February the 15th,

2007, we will administratively close the dose reconstruction. If we do receive your signed OCAS-1 form by February 15th, we will make the changes indicated above in the final dose reconstruction report.

Now there's a Constitutional problem here. On the OCAS-1 form when you sign a document, you sign so under -- under -- under penalty of perjury and a -- and a felony offense. They're asking me to sign my OCAS-1 form before I even see what they've written, and that's a violation of my Fifth Amendment Constitutional rights. I have a right to see what I'm signing for and I have a right to know who I'm talking to. And I have not talked to a dose reconstructor to date that I know of, only a David Shatteau, an office worker, and I don't know how he is qualified to do dose reconstructions, but he doesn't even show up on the ORAU team anywhere. And I'd like the Board to look into this. I know it's -- you -- it's my own problem, but I'm not the only one going -- I mean we're all having the same problems.

DR. ZIEMER: Okay, John. Thank you for your comments. The Board has all heard them --

MR. FUNK: Well, what about me signing this OCAS-1 form even before I've seen them? Isn't that -- you -- you're going to allow this to stand?

DR. ZIEMER: Well, the -- my understanding of the OCAS-1 form is you're only stating that you don't have any additional information to --

MR. FUNK: But it --

DR. ZIEMER: -- provide.

MR. FUNK: -- also says on there you're signing it under perjury of a penalty (sic) that everything on there is true and correct. What is to prevent -- now they've proven they can lie. I just showed you. What is to pro-- what is to prevent them from writing a whole bunch of garbage in there, then I got to live with it after I signed it? I have a right -- under the Constitution of the United States, I have a right to see what I'm signing for.

DR. ZIEMER: I can only tell you that the signing of the form -- you are only claiming that you have no additional information to --

MR. FUNK: Well, I tried to provide him additional information. He refuses it.

DR. ZIEMER: Well, I think you have provided

it.

MR. FUNK: Sir, I tried to provide (unintelligible) --

DR. ZIEMER: It's in -- it's in the public record that --

(Whereupon, interruption on the line rendered understanding of either speaker impossible for a time.)

DR. ZIEMER: John, are you still there? We've got a bunch of noise on the line here, but we -- we may have to have you -- I -- I don't know if I can tell you any more than that. Signing the OCAS form, my understanding is, has no implication that you agree with the infor-- with the dose reconstruction or the findings, only that you don-- that you have no further information.

Are you still there, John? We may have lost him, but -- okay, sorry about that.

Let us then proceed with Warren Krull* -- Warren Krull, SAIC?

UNIDENTIFIED: (Off microphone) (Unintelligible)

DR. ZIEMER: Okay, Warren has signed the wrong sheet. You -- Warren, you're obligated to talk

for 20 minutes.
Okay, I have another one that looks like it was cross out also, Vicky -- maybe it's Gaffey, but it's crossed out. Okay.
Larry Burgan, did you sign the right sheet?
Okay, here we go. Larry's with Dow.
MR. BURGAN: Move the microphone closer to the table instead of the table closer to the microphone.
DR. ZIEMER: That's good.
MR. BURGAN: That's common sense. That's like -- that's a theme I'd like to use in this comments I'm making is common sense.
I'm speaking on behalf of the Dow employees and Spectrulite employees who were -- as you undoubtedly know, with all the information you've been given, this uranium contamination in the amount they used -- I'm just going to glance over this because you have so much of this information already available to you. I just want to make sure that some of this is highlighted and -- and for instance, the -- to start off, you know, the contamination started in the '60s -- '50s and '60s. And these guys who handled this, you know, they should be

compensated. They knew that this stuff was hazardous and I'm pretty certain they were told that it was not as dangerous as they was led to believe 'cause anybody sitting here with this information knows that they would not willingly work with this material now unless they was misled to believe it was harmless or not as dangerous as it was led to believe.

Now I've found out that the -- even the Corps of Engineers and the Department of Nuclear Safety was having difficulties in addressing the -- the dosage to the workers. In fact, these documents say that the Corps of Engineers inadequately addressed their dose to the first critical group, the workers, and ignored the second group, the residents. And this was in February 25th, 2000. And I'll submit t his one to you.

Then the Department of Nuclear Safety came back a month later, and while they agreed that the removal of contamination is the only common sense -- the theme -- there remains a difference of opinion to the extent of the cleanup. And the difference of opinion is that they only want to clean up the uranium and not

the thorium. This made no difference to me at the time when I found this information out. It did later on. But as you all know, or should know, the Army Corps of Engineers have never found a record of any radiological cleanup whatsoever after Dow left.

Now Dow said it was a small lot of uranium that was, you know, processed through this press, this machine. But yet the Oak Ridge National Laboratory in -- under the Department of Energy stated that they did this cycle -- this work cycles every month for 12 consecutive months. So they ran -- it says here, an estimate 20 billets every month for 12 consecutive months from '57 through '60. That's four years. So if you do the math, that's over 960 billets. So each month -- they're right, it was a small lot of uranium ran per month. But when you total it together, 960 billets, and I've ran tens of thousands of billets through this machine. I've wor-- worked on it for 12 years. These billets had to weigh over 2,000 pounds easily 'cause I know the weight of aluminum and magnesium, and there's a -- there's a completely different scale. It's like lead to

aluminum. So these were well over 2,000 pounds. So if you just do the simple math, 920 billets times 2,000, we're talking over two million pounds of uranium was processed through this press over this short period of time. That is not a small lot. That is a large lot -- and I could -- I'm desperately underestimating this because I'm using 2,000 as a low estimate because of what my knowledge is of the weights of aluminum and magnesium. Now the other thing that they addressed -- or I should address, I should say -- is that the uranium that they found over the press, directly over the press, stated was 13.6 times above the surface contamination allowable limit, and this was in 2000. See, two million pounds of uranium just -- you cannot take every single pound back out of there. It's gone up in dust, 'cause every time that hot ram would retract -- you've got to remember, 900,000 degrees, all that heat rises, and every piece of dust, smoke and everything goes with it in those beams to make it 13.6 times above the legal limit, or 13,060 percent above the legal limit.

Now also they found at the time that directly above the press was between nine percent and 100 percent was thorium-232. Now again, at the time this didn't ring a bell with me until I started looking at the information. And when I was looking through the processes of how they ran this uranium, I came across a customer that we did the exact same process for, and I -- like I said, me and my coworkers were on this press for dozens of years. We're not talking about hundreds of employees. We're talking a handful, less than a dozen, for a dozen years were on this machine. We never ran this process for any other customer except Martin Marietta, a very hard, dark gray, dense, heavy metal, extremely difficult to run. It was done in a work cycle basis, exactly like Mallinckrodt. It was -- used a carbon follower block, exactly like Mallinckrodt. We never did this process ever again for any other customer any other time all the years I worked there. And this machine, this press, which is from one end of the wall to the other long, of course, this is almost the size of a small locomotive, so this isn't something you can easily

decontaminate, trust me. It's very, very heavy and dense.

So to give you an extent of the radiation, you've probably seen these already, it's the extent of the contamination. It shows a giant red spot where they cleaned it up in 2000. Well, unfortunately, me and my coworkers' desk was directly underneath the red spot. Now if we had had this information prior, none of us would never have volunteered to work there. You've got to remember, those guys who worked back there in the -- in the '60s and '50s, they were given a choice. They had badges. They knew what they was working with.

That choice was taken away from us, along with our health and our means of providing a living. And would any of you voluntarily work underneath this type of exposure and -- if you'd seen this, if you had the knowledge? Well, that knowledge was withheld from us. They knew this. Not only the government, but the owner of the factory. And when they did clean this up in 2000, the shipping manifest says that they removed 59,000 pounds of material. That's -- 60,000 pounds, that's

almost 30 tons. Now common sense tells you not all that was radioactive. But even if we say one half-percent, not even one percent of it but just one half-percent of this was radioactive, we're still talking 3,000 pounds of radioactive waste directly over our heads, 'cause when they cleaned it up, they did not clean up the whole factory. They did not clean up the whole building. They just cleaned directly above the press where all this uranium was ran.

And when I found the process of how they did this and I connected that with Martin Marietta, how the same identical process, how they was so labor-intensive their employees -- how they was paying so much attention, so diligent, they was collecting every single chip. They even took the wooden crates that the billets were shipped in that came to our factory, which seemed unusual at the time but I didn't question it, it's all hindsight now. They took every piece of scrap they could with them. And to me at the -- it made no sense, but now it does 'cause what did we run? What was it that we ran? And the only thing I could think of is it has to be

the thorium.
And the reason I came to that determination was there's a head of the laboratory, he's a department supervisor -- not a supervisor, but the department supervisor, over the foreman. His job in the laboratory was record all hazardous material coming in and out of the factory. And he would take ground samples, water samples, air samples and radiation readings. And his name is Dean Bartling*, we have a affidavit, and he is also ill and applied to the EEOICPO -- PA, and because of this he was also concerned because of his health being endangered. And he's testified he knows where all the radiological skeletons are buried around this factory, and he repeatedly was told to put down false readings. He was given inadequate equipment, antiquated radiological devices from the '50s, they were uncalibrated. He was used -- he was forced to use beta/gamma detectors on alpha particles. Now we know that's two different, completely separate things. One won't pick up the other, and he was writing down the low readings for the alpha particles using the beta scanner.

He knew this was wrong. How did he know it was wrong? He spent six to eight years in the military monitoring nuclear waste, nuclear weapons and nuclear materials. That was his job in the military before he got hired at this factory, so he knew -- kept going to the owners repeatedly telling them you guys aren't doing -- using the right equipment. This is the high readings. We need to get ahold of the Nuclear Regulatory Commission. And he got so fed up with it that he finally quit, found himself another job.

And his testament is very, very credible because he is -- he works for the State Police of Illinois as a forensics expert right now. And because of his health, because of his illness, he can't make it up here today and testif-- you know, to tell you his story, and along with a lot of other people who cannot come up here today and tell their story because their health and their illness and their financial situations. So that's why I'm here, to try to help tell them for them.

And you know, this was all preventable from the very beginning. In 1989 when they took the

first radiological survey in this factory -- remember, over millions of pounds of uranium was already ran through this machine, but the very first survey from the government wasn't till '89. And then they said it was in concentrations exceeding guidelines, thorium and uranium.

Now why would thorium be there in '89? Well, I talked to coworkers. They got their license for thorium, to produce it, in '86. Bill (unintelligible) is an operator on the press, ran it for one day for this company in white suits -- Martin Marietta -- same process, carbon follower block, same as Martin Marietta, same type of procedure. He did it for one day. His coworkers on the other side, Jim Bland and Charlie Fulkerson*, they worked this one day, ran these six billets. They died four years later of brain tumors, both of them, about four months, six months apart. Now those were the guys who trained me. These guys worked on this press for ten years. Now I was taking over their place.

Now when I ran it for Martin Marietta in '92, we did it in work cycles also. We did it for a

full week, then came back a month later and ran it for three more days. The government came back in in '93, took surveys and said concentrations, again, were still exceeding guidelines. Now this is not a coincidence they came in the year after Martin Marietta runs this metal. I mean it's not like the government's walking down the street and said oh, while we're here can we take some read-- there had to be a reason they were there taking readings after Martin Marietta showed up. Now this press with -- bombarded by all this uranium, hot -- you got to remember, it got heated up to 1,000 degrees to get it through 'cause it's a hard, dense metal -- it was for Martin Marietta, which was extremely different from all other alloys. I mean aluminum magnesium heated up is soft and -- softened up enough to squeeze through a shape, a die. But this was up to 1,050 degrees. Now how can I remember this 15 years later? Because anything I ever ran through that machine -- and like I said, I ran tens of thousands of billets through it, me and my coworkers. Anything that went up over 1,000 degree would either melt if

it was aluminum or burn if it was magnesium. So when they said to turn it up over 1,000 degrees, I was like a cat. I was ready to hit that off button. It came out glowing orange. I've never seen anything come out of that heater glowing orange before. It was either burning or melted. It was a very high temperature. And this was a completely different process and we never did this again after they left. And seeing the connection between Mallinckrodt and what they did leads me to believe that it had to be the thorium is what we -- 'cause the only thing the employees would tell us it was -- and I asked repeatedly, different employees at different times whenever I could get them along, you know, what is this stuff; what is it, what alloy is this? And they all had the same generic response: It's a special alloy. And one gentleman even said well, I'm not sure, I don't know. Which seems very unlikely since he was taking all the information and dictating all the importance and temperatures and grades. I mean this was a very, very complicated process and it was never done again.

Now there was also a connection with this press with, believe it or not, GSI 'cause in '66, believe it or not, they got a crack in the back of this press. Like I said, it's -- it's from my -- one end of the room long and about as tall as that screen behind you. Now when it was sent over to GSI, they had it X-rayed for a crack after a repair. So there was even more radiation put into this machine, not counting the uranium dust raining on top of it for dozens and dozens of years, not to mention the uranium that was put through it for four years, not to mention the thorium that was ran in secret on us for those two years, but then they had to go over and send it over there and have it bombarded by a Betatron.

Now you'd think this press would be safe from the public and put away because of all its hazards. Well, not so, because I found it abandoned on a back road 50 feet on the other side of the county line. Now, there's three presses that was in this factory. I showed you that hot spot where we sat. The press on the far end was sold for a million dollars to another company in Georgia. This is in a trade

press magazine. The one in the middle was sold to a company in Russellville, Arkansas. This press that I'm talking about that ran all this radioactive metal was completely re-overhauled and built like brand spanking new in 2000 was cut up to scrap.

Now this does not make sense, especially since the owner of the factory himself -- I heard him say this during a financial meeting -- this one machine's revenue was between $2 to $8 million a year. Now no one was going to rope this machine off and say don't get under this radioactive dust and stuff. It's like killing the golden goose. And when it comes to money, people will do just about anything -- lie, steal, cheat or not tell you the truth. And this is one of these cases.

Now those gentlemen back there who had the choice in the '50s and '60s, that was taken away from us. But the radiation was still there. It was still affecting us, 13.6 times above -- this was in 2000. Now we're not talking about thousands of people who ran this machine. We're not even talking hundreds. We're -- a general consensus of all the

employees I've talked to, anybody who worked four years or more on this machine should be eligible because in the 1990s to 2000 alone, there's probably a dozen people that operated this machine. You had to have seniority to -- and when you got that, you held onto it because it -- there was a lot of overtime to be made here, and a person who worked four years probably got six -- five, six years worth of exposure because of the overtime. That's why I put it anybody from four years on should be eligible, because we're not talking about hundreds of people. We're talking adding just a dozen people just for the '90s to be included in this group. And not to mention the '80s, the two gentlemen that I spoke of that died earlier of brain tumors. They both worked at that same machine for ten years in the '80s, so we're still not talking hundreds of people or -- we're still talking two, three -- maybe three dozen, four dozen people at the most affected, with only a fourth ill. So these -- this has to be incorporated in your decision-making when you make your final decision to -- this is a not a handful of people, but this is a handful

of people that need the help, that are sick. Now I've brought some affidavits of employees, and I want to submit them to you. I want you to know that, you know, these are not just letters from disgruntled employees that lost their jobs. We're talking about supervisors. We're talking about department supervisors. We're talking about company people, key information, who has guilty conscience, who has knowledge of this and was afraid of losing their job, their well-being, their welfare, you know, that's now not afraid to speak. This is important and need to be addressed before your decision is made.

Now this is my health situ-- I was never sick in my life, and I've never been hospitalized, ever. I've never been in emergency room except stitches in my finger one time. Yet I'm on full medical disability the rest of my life. I can't open a soda bottle. I can't open doors. I can't drive for long periods of time. I can't use my hands. I can't walk. My knees -- arthritis throughout my whole body. Maybe you might remember up in December in Naperville I had a pronounced limp, using a cane. Well, a

week before that I was literally unable to walk for two days because of this. Fortunately I was able to break it up, it was loose -- up and swelling went down so I was able to attend the meeting up in Naperville, but this is the type of illness that I am experiencing. But the coworkers that worked with me on this press have the same respiratory problems, have the same rashes, have the same illnesses. And one more for instance, the employee who worked me that one week on that special alloy for Martin Marietta, he only worked on that job for two months, he was only in that building for two months, he was -- he had the least exposure of probably any employee on the machine, but he worked with that special alloy, the thorium that Dean Bartling said came into the factory -- remember, it was his job to record everything hazardous coming in and out, he knows Martin Marietta leased it -- he knows what they brought in, he put it down in an affidavit. He knows. Well, this employee, this coworker of mine, he has four inches of his esophagus missing. He has lung problems. He has heart problems. He had his gallbladder removed. He

had cyst on his liver and intestines.
My wife has the exact same illnesses, exact.
She had pericarditis, swelling of the lining of the heart; pleurisy, swelling of the lining of the lungs; intestinal problems. She's also applied for disability. Now his wife, her illnesses mimic mine exactly. Skin rash, the arthritis, the migraines.
It's not a coincidence. This is not a coincidence. This is a pattern. And this is something that has to be addressed whenever you make your decision because it's not a handful of people -- I mean not millions, not thousands, but a handful of people that need your help. I mean when there's a car wreck, there's someone you can call. You know, there's an ambulance. If there a -- a accident, a robbing, a mugging, you could call a policeman. Your house is on fire, you can call a fireman. He'll risk his life to safe your hou-- he'll risk his life to save yours. But when you're sick from radiation, from factory, there's no 911. You're our first responders. You're the only people we have that can help, that can actually save our

lives, just as a policeman can, just as a fireman can. And we're -- we need the help. We have to have it. Remember, this choice was taken away from us. We didn't have it. We didn't -- you'd have to force us to work underneath this, and we was literally by not telling us the facts.

So I hope you incorporate this into your decision. I'll give you the information that you need. And one other thing I'd like to address is the short time that I did work over in casting for one year, working in a department called leeching, is where they would take waste from the magnesium process and the sludge and dirt that was left over from the bottom, it sinks to the bottom, was reprocessed, reclaimed. Well, it was rumored through -- from the old guys, who knew what they were doing, that this was thorium-contaminated sludge. Now I ask the employees that I work with, I says did you hear anything about this, and they said they had the same concerns and went through their supervisors, just like normally anybody would, and their response was -- varied from well, you have to

be allergic to it for -- and if you're allergic to it, you know, you'll know it, you know; if you're not allergic to it, it'll be fine. Other people -- other supervisors gave information that oh, it -- you'd have to be around it for 1,000 before it would start to hurt you, things of this nature. But not -- never the truth.

Now beryllium was also used widely over there, even though it -- they may not mention it, but believe me, I had a bar sitting on my desk for over a year, using it as a paperweight. I got it from over casting, and the reason I remember it so well is -- when you look at it every single day, you don't forget it, and this silver ingot had the initials KBI on it, which I believe stands for Kawecki Berylco, Incorporated, and Berylco sounds too much like beryllium. I mean they had to be a beryllium producer. They had -- I talked to employees who worked in the department and they described to me how it used to come out of buckets and they had to chop them up in little ingots because when you melt this, you have to have a certain amount of weight. They may say 20

pounds, 14 pounds, depending on what alloy they're making. Well, it has to be chopped up, and chopping up produces dust. And this is a lot of the people's problems in this part of the factory is this process of leeching and casting is respiratory, and I believe that this thorium -- or this beryllium is the main source of that.

Now everyone knows radiation is genetic -- on a genetic level can affect people. I lost almost all my grandchildren but one because of this. My wife's health is poor. My health is declining. My first child of course was born with a birth defect. She passed away two and a half years later because of her birth defect. She had a tube in her throat. You may not be able to see it but it's a trachea. It's common with radiation, I'm sure, birth defects.

Second child -- grandchild spent four months on a respirator. Four years -- I mean four months in an incubator before he was actu-- but he's still alive, but he still has respiratory problems. Now these were my son's children. Now my daughter's first and only child died at six months. She wasn't even born yet. It

wasn't a miscarriage. The baby just died. She had to deliver a stillborn. Again, this is my family line.

My sisters -- all her family and children, grandchildren, healthy. My youngest sister, all her children healthy. My family line -- bam, just that bad.

Now I know as a board of directors, I know what you're assigned to do. I know you can't give me back my friends, my coworkers' health, their lives. I know you can't give me back my wife's health or my grandchildren's lives, and you can't give me back my health or the years that I've probably lost due to this illness. I may not reach the age of 60. I know this and I can accept it. But what you can do is give us back our dignity, hope, a quality of life that we have lost because of this, that was taken away from us. Remember, we didn't slip in a bathtub. This was done to us. We was poisoned for profit, whether intentionally or unintentionally. Sure, they knew it was there. Well, maybe they won't get sick. Okay. Well, if they get sick, maybe they won't get too sick. Okay. Well, if they get too sick, maybe

they won't die. Well, if they die, maybe they won't figure it out. But it all goes back to the beginning, to knowing it was deadly, but they was just rolling the dice with our lives. So keep us from literally losing everything we've already lost, our whole lives, everything. Your decision depends on this. I mean standing in line for food every month at the Salvation Army. You know, the financial part of this is only secondary. But medical is the most important. The financial would just bring a loan -- for my sake, a wheelchair ramp, a wheelchair for the future, things that I'll need, someone to actually mow my grass. This is what the financial could provide for us, food for our refrigerator. But the medical part, this is the part that can actually improve the quality of our lives, save our lives, extend it past -- I want to live past 60. I want you people to help me do this because, like I said, common sense is what it's all about. You're the only ones can do this. You're the only ones can help us, and I want you to consider all these facts, please. It is so important to so many people. And like I

said, if you think it involves thousands on this -- on this press, no. But in the pot room it could go up to two, three dozen people also because these people are exposed to beryllium and thorium. That's a separate issue that I wasn't involved in, but has to be -- you have to, you know, at least acknowledge it in some form whatsoever.

Now there will be people tomorrow to speak on Dow's behalf and SCI's, and I hope they have more information than what I've given you guys today. And I appreciate you being here and listening to us 'cause, like I said, there is no one else. Thank you.

DR. ZIEMER: Thank you, Larry, for a very moving account.

I have Randall -- I'm having trouble reading --

MR. COX: Cox.

DR. ZIEMER: -- Cox, Randall Cox. There you go, Randall.

MR. COX: I won't get too dramatic or go into a tirade or anything, but I'm pretty pissed off. It took me a while to figure it out, but my father was an AWE in the '50s, and he worked for Associated Aircraft in Fairfield, Ohio. He

didn't work there long, but he worked in it and he was -- actually machined warhead parts. And this went on for a while and came all the way up to probably the late '80s, early '90s, all of a sudden everybody started getting cancer in my family -- everybody, all five members, including myself. I'm a brain tumor survivor. I may even be looking at a second one coming up soon as a MRI just turned up kind of strange here recently. But it took me a while to put it together so I don't know if it was secondary exposure from there or from Fernald, because we also lived near the Fernald Feed Materials Plant, within a few miles of there.

And I was foolish enough to call up and ask about the settlement -- so-called settlement, I'll say that, because in my opinion it was a scam. They basically -- I've observed how they were running their grids with helicopters and stuff like that. I don't know if they used a rad chaser or what, but I do know rad chasers don't see through metal roofs on buildings.

And this is also probably 20, 25 years after the fact, but I know my whole entire family got cancer, everybody.

This doesn't run in my family. There are no other cases of cancer anywhere in my family line. Recently, probably about three or four months ago, my 22-year-old nephew who's a member of our armed services was diagnosed with metastatic colon cancer, and I believe that's a result of some kind of genetic damage or something because shortly after he was born was when my sister, the first one, my youngest sister, developed cancer. Shortly thereafter my mother developed cancer. Well, they managed to get through the operations and stuff and survive for a while. Then my father was diagnosed with bone cancer.

Well, that's the -- by this time I didn't realize what was happening to me, that this is like a slow creeping death that comes up on you, and I didn't actually realize what had happened till 2003 when I was diagnosed with a brain tumor. I had a 4.5 gram primary grade one meningioma, and I had it removed. I managed to get through it. It cost me most of my eyesight, part of my hearing, and I started putting two and two together. I thought well, it's com-- cancer is a pretty common thing

nowadays, but every member of a family, all within a few years of each other? This tumor that I had was a size -- my neuro-oncologist told me that I'd had it at least ten years. That would make it 1993 when I started developing it, which is also right in the same time frame when everybody else did.

And I've been given the runaround. I called this Fernald thing that's handling this agreement. They told me that it specifically excluded health problems. Is that an agreement? That doesn't sound like an agreement to me. I asked them what -- what about the payouts. Well, all the money was gone. We paid most of it out to people with severe emotional distress. Try having your whole family die within a few months and talk about severe emotional distress.

I -- at this point I'm beginning to see my federal government as a serious antagonist rather than someone who wants to help out. And I implore you, if you can do anything about this or investigate this, please do, because it's necessary. I'm not the only one. A lot of schoolmates, friends that I grew up with,

half of them are dead now. And I lived in Riley Township, which is next to Crosby Township where Fernald was. And out of all the deaths that were -- that I know of out there, almost all of them were cancer. There were maybe two that were heart attacks.

I mean some of these people were young. My sister was in her forties, metastatic bone cancer. I mean this kind of stuff doesn't come out of the blue. There's a reason for that. I mean all you have to do is sit down and figure the odds. I mean the odds of that happening are extremely remote that it was a coincidence, extremely remote. And basically I -- especially after I found out that I might have a second brain tumor, I'm beginning to lose my patience. And I can't really afford a good civil trial attorney. If I ever win the lottery, the government's in big trouble, you can bank on that.

For one thing, I know where to look to find the radiation. They didn't. They flew over with helicopters, probably with '50s and '60s area -- aerotechnology. There are lots of places to look that they didn't look. They didn't do

groundwater testing. They didn't do anything of that sort. They didn't test buildings where grain or feed were stored for livestock. The fact of the matter is, we lived on a 360-acre farm. We sold Hereford beef cattle every year. I wonder how many of those steaks were radioactive? Cows don't live that long, so there's no way of telling. They had cattle around Fernald up there, but you know, what's a -- what's a cow that lives to old age? It might live, what, ten years or something, 12 years? Well, it took us 25 years before we started developing symptoms. And I'm just -- it leaves me scratching my head how a country that always seems to take the moral high ground on every foreign issue that comes along can simply turn their back on their own people and let them die off one at a time. It almost makes me believe that they're waiting for them to die, along with any survivors that had a chance of collecting benefits, just to avoid paying for it.

Financial culpability, I agree with the fella that talked last time, it's a matter of financial culpability, and that's exactly what

they're avoiding. And they're doing a very good job, too. I'm 53 years old. I don't even know if I'll live to be 60, and I never even worked with the damned stuff. I just lived out where it was being dumped on people's heads. And they said well, oh, the dust from Fernald, it only got out five miles maximum. Well, that's a crock. That would depend on the particle size, the type of material it was, what the weather conditions was, which way the wind was blowing, how high it went up into the atmosphere -- there are so many variables that they have no way of convincing me that they have all the answers because they simply don't. I already know they don't. If they do, they're concealing them.

And I suppose it's been very profitable for them, especially since government contractors probably make billions in taxpayers' money. And I -- like I said, I agree with the last guy. I think it's purely a matter of money. They don't want responsibility and they damned sure don't want financial culpability for this. I think all it'd take is a really sincere investigation that would probably prove me

right. And I won't go on any longer, but I thank you for your time and thank you for listening to me.

DR. ZIEMER: Thank you very much. I -- I might comment -- you may be aware already since this Board, by law, is only involved with those who worked on the sites and --

MR. COX: (Off microphone) Yeah, I (unintelligible).

DR. ZIEMER: -- but your remarks are on the public record now, so --

MR. COX: Thank you.

DR. ZIEMER: -- thank you for sharing that with us.

This now -- these are all the folks I have on the list. Is there anyone else that wished to make public comment tonight?

(No responses)

If not, I thank you. We will have a public comment period tomorrow evening, and the Board will be meeting in full session all day. You're all welcome to come back. We -- we will be here tomorrow and Friday, so please avail yourselves of the agendas to make sure that, if you wish to be here, that you're here at the

right time. So we'll recess till tomorrow morning.

(Whereupon, the meeting was concluded at 6:22 p.m.)

CERTIFICATE OF COURT REPORTER

STATE OF GEORGIA

COUNTY OF FULTON

I, Steven Ray Green, Certified Merit Court Reporter, do hereby certify that I reported the above and foregoing on the day of Feb. 7, 2007; and it is a true and accurate transcript of the testimony captioned herein.

I further certify that I am neither kin nor counsel to any of the parties herein, nor have any interest in the cause named herein.

WITNESS my hand and official seal this the 22nd day of April, 2007.

_____

STEVEN RAY GREEN, CCR

CERTIFIED MERIT COURT REPORTER

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